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Friday
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Federal Aviation Administration

Banks, Banking
Federal Deposit Insurance Corporation

Cable Television
Federal Communications Commission

Civil Rights
National Science Foundation

Crop Insurance
Federal Crop Insurance Corporation

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272, 274, and 285

[Amdt. No. 243]

Food Stamp Program; Duplicate Participation and Cash-Based Nutrition Assistance Program in the Commonwealth of Puerto Rico

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking finalizes the provisions of the interim rule about duplicate participation which was published on March 4, 1983 (48 FR 9212). This rule required State agencies to establish systems which will assure that no individual receives food stamps in more than one jurisdiction within the State. In addition, State agencies must ensure that recipients of Supplemental Security Income (SSI) in SSI cash-out States and participants in cash-out demonstration projects do not also receive food stamps. These changes are required by Pub. L. 97–253, the Omnibus Budget Reconciliation Act of 1982, and are intended to reduce program costs, waste, and abuse.

In addition, this rulemaking amends the regulations published on May 27, 1983 at 47 FR 23804 on the nutrition assistance program in the Commonwealth of Puerto Rico to implement a provision of section 1 of Pub. L. 98–204 which was enacted on December 2, 1983. This legislation extends authority to the Commonwealth of Puerto Rico to continue to operate a cash-based nutrition assistance program during the period January 1, 1984 to September 30, 1985.

This rulemaking also amends Food Stamp Program regulations to correct an error in the definition of a household.

DATES: These amendments are effective January 22, 1985.

The requirement to establish a system to detect duplicate participation in § 274.1(d) with an implementation date of October 1, 1983, was established in the interim rule.

An implementation date of January 1, 1984 for the amendments to §§ 285.2 and 285.3 was established by law.

FOR FURTHER INFORMATION CONTACT: Keith Spinner, Supervisor, State Agency Management and Control Section, Program Design and Rulemaking Branch, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, VA 22302. Phone 756–3431.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed with regard to the requirements of Executive Order 12291 and Secretary's Memorandum No. 1512–1, and it has been determined that the rule is not a major rule as defined by that order. The rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because this rule will not directly affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. Robert E. Leard, Administrator of the Food and Nutrition Service (FNS), has certified that the rule does not have a significant economic impact on a substantial number of small entities. The primary impact is on State governments (and on county governments to the extent they operate the program within the States) and on a relatively small number of food stamp recipients. This rule reflects the requirement that State agencies establish systems to ensure that individuals do not receive duplicate food stamp benefits and reflects the statutory extension of the authority of the Commonwealth of Puerto Rico to continue to operate a cash-based nutrition assistance program from January 1, 1984 to September 30, 1985.

Paperwork Reduction Act

Information collection requirements contained in this regulation (§274.1(d)(1)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 0584–0333. There are no other reporting and recordkeeping requirements in this regulation subject to approval by OMB under the Paperwork Reduction Act.

Background

Prevention and Detection of Duplicate Participation

Introduction

On March 4, 1983, the Department published interim regulations (48 FR 9212) which implemented two provisions of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253). These provisions require agencies which administer the Food Stamp Program within each State to establish a system that will prevent any person from receiving multiple benefits in the Food Stamp Program.

An explanation of the rationale and purposes for this rule was provided in the preamble to the interim rulemaking. This preamble deals only with significant changes from the interim rulemaking. Therefore, a full understanding of the basis of the final rule may require reference to the March 4, 1983, interim rule.

A total of 15 commenters sent in comments and suggestions on the interim rulemaking. There were six comment letters received from State agencies, five from FNS Regional Offices, three from public interest groups, and one from a local food stamp agency. Most of the commenters supported the importance of having a system to detect and control duplicate participation.

Funding

There were two comments concerning funding for duplicate participation detection systems. One commenter

recommended that the Department provide 75 percent matching funding for maintenance of such systems, in addition to the enhanced funding for planning and developing the system. The Food Stamp Act, as amended, provides for 75 percent matching funding only for the planning, design, development, or installation of automated data processing and information retrieval systems. Therefore, the Department is not permitted to provide 75 percent matching funds for the ongoing operation of duplicate participation detection systems.

A second commenter asked whether the duplicate participation checks could be claimed under the 75 percent matching funding for fraud activity. The duplicate participation detection system is an administrative system and not part of the investigation of any individual case already suspected of fraud. Therefore, the costs of operating the system cannot be claimed under 75 percent matching for fraud activity, as described in § 277.15 of the Food Stamp regulations.

System Design and Function

A number of comments were received concerning difficulties and/or confusion about establishing a duplicate participation detection system.

Two commenters expressed concern about the administrative burden these requirements would put on State agencies without a centralized computer system. While we recognize that this is an administrative burden, the law specifically requires that each State agency establish a duplicate participation detection system. FNS will work with State agencies experiencing difficulties in establishing a system.

One commenter said that the check for individuals participating in more than one household should be mandatory, rather than appearing as an option. The Department did not intend to imply that checking for individuals participating in more than one household is an option. The duplicate participation check is intended to ensure that no individual participates more than once in any month, in accordance with the requirement in § 273.3. The process of matching names and social security numbers of persons receiving stamps throughout the State should detect whether any individual is receiving excessive benefits through multiple applications or by being counted as a member of more than one participating household. In order to clarify the issue the Department reworded the final regulations to indicate that the requirement is for checking for duplicates both within other jurisdictions and within other households.

One State agency commented that duplicate participation checks for each individual could not be effective until each member has a social security number. We are aware that the Social Security Administration may not have been able to provide all numbers on a timely basis. The Department expects any State facing delays from the Social Security Administration to implement the system with the social security numbers it has available. Duplicate participation checks would also be made on the names of all household members and whatever other biographical data is being used by the State agency. As the social security numbers become available, the State agency may want to do a duplicate participation check for them against its data base or wait until the next scheduled check.

The interim rule required that names and social security numbers be used as identifiers at a minimum and strongly recommended using individuals' birth dates also. The Department received one comment concerning what identifiers should be required. That commenter recommended that the Department only recommend and not require other identifiers besides names and social security numbers. The capability of State agencies for more extensive matches varies. Some have found that matching addresses is the most valuable means for identifying persons who have reported false names or social security numbers. Several existing systems for computer matches use birth dates as additional identifiers, but because of the differences between States' computer systems, the Department is not requiring them.

One commenter suggested that the Department should consider requiring checks of similar social security numbers (for example, if all the numbers are the same but 1, 2, or 3 of the numbers are transposed or if 6, 7, or 8 of the 9 numbers are the same) and similar names (exact last names with variations of the first and middle, or maiden names). The Department is not requiring such checks; however, it does encourage State agencies to make such checks.

When State Agencies Must Search for Duplicate Participation

The interim rule required State agencies to run checks to detect multiple benefits: (1) At the time of certification, recertification, and whenever a change in household composition occurs, or (2) quarterly, if the State agency could show that these timeframes are incompatible with its system. Two commenters agreed with the flexibility of allowing State agencies to check either when an action takes place or periodically.

The Department has made one modification to these provisions. Based on our experience working with this rule since the interim was published, we have decided that this modification is necessary to maximize State agency flexibility in conducting duplicate participation checks. We have changed "whenever a change in household composition occurs" to "whenever a new member is added to the existing household." The potential for duplicate participation exists whenever someone comes into a household, not when a person leaves. Thus, this change more accurately targets the point at which a duplicate participation check would be effective.

Two commenters suggested that State agencies should be allowed to determine the number of checks to make, based on their own cost benefit analyses. The Department did not change the check to less often than quarterly because it is concerned that individuals with short certification periods be included in the match.

One commenter suggested that State agencies which match at certification, recertification, and when a new member is added should also check annually to be sure that no individuals have been overlooked. The Department does not believe that there would be any significant benefit from an annual check and therefore has not made this change.

Another commenter recommended that the file should be maintained in such a fashion that it could be used to match with other files of that State, e.g., State tax records, or with files from other States, such as a neighboring State's food stamp file. The Department has not included this suggestion in the rule because of the many divergent systems and files already in existence; however, State agencies may want to consider compatibility in their plans for developing new systems and files.

Cash Assistance in Lieu of Coupons

The interim rule also required duplicate participation checks to determine whether any person is receiving both food coupons and cash assistance in lieu of food coupons. The interim rule required this check to be done with the same timeframes as the match for individuals receiving coupons in more than one household or in more than one area within the State. One commenter said that the check for receipt of duplicate food stamp and

cash-out benefits should be done when necessary, but not less often than annually. Although the household circumstances of individuals receiving cash-out benefits are more stable than most individuals eligible for food stamps, significant program losses could occur. Therefore, the Department has decided to continue to require that checks for receipt of duplicate food stamp and cash-out benefits be done at the time of certification, recertification, and whenever a new member is added to the existing household. However, if the State agency can show that these timeframes are incompatible with its system, the FNS will allow the State agency to check whenever necessary, but no less often than annually.

Action on Hits

Several commenters requested clarification of the actions that take place when the State agency finds a duplicate in its data base. First of all, a "hit" does not necessarily mean that an individual is attempting to receive multiple benefits. There may be a mistake in the data base or another household may be claiming the applying individual although the applying individual is not a member of that other household. An individual who is a resident of a shelter for battered women and children may also appear as a hit. Therefore, the state agency must follow-up a hit to determine whether duplicate participation exists. If a duplicate is found prior to approving an application for food stamps the State agency must adjust the household size to the correct number before approving the application or if the household is ineligible, deny the application. If the individual has already been receiving duplicate benefits, the State agency must process a claim. In either case, the State agency should also proceed with an administrative disqualification hearing or referral for prosecution, if deemed appropriate. The interim rule outlined the necessary follow-up to resolve hits. As we do not believe that additional specificity is needed, we have not changed the rule.

Processing Standards

One commenter was concerned that matching for duplicate participation would cause a delay in processing the application or issuing timely benefits to the household. Checking at certification and recertification should be done before the application is approved. However, if checking for duplicates will cause a delay in acting on the application beyond the normal 30-day processing standards, the State agency must process the application within the required timeframes, without the duplicate check, then process a claim if a duplicate is later discovered. To clarify this issue the Department has added a provision to the regulations that says that if the State agency matches at certification and recertification, it may not postpone processing the application and providing benefits beyond the normal processing standards of § 273.2(g) in order to match.

If the State agency finds a duplicate in making a check at certification or recertification, the hit needs to be resolved in accordance with the provisions of § 273.2(f)(4)(iv) before the application can be processed. If resolving the hit will cause a delay in processing the application, the State agency should act in accordance with the provisions at § 273.2(h) on delays in processing. This has been clarified in the final regulation.

Other Measures

One commenter requested clarification of what was intended by the phrase "and implement other measures where necessary" as stated in § 274.1(d)(1). If the State agency's system detected a large number of duplicates, the State agency should implement other measures to deter incidences of duplicate participation. One example would be to increase the potential for detection of duplicate participation by changing from quarterly to monthly checking or to checking at certification, recertification, and when a household member is added. A State agency could also emphasize prevention through a publicity campaign or increasing emphasis about the civil and criminal provisions and penalties during the interview process. This final rule has been revised to clarify this issue.

Cash-Based Nutrition Assistance Program in Commonwealth of Puerto Rico

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) provided for the conversion of the Food Stamp Program in the Commonwealth of Puerto Rico to a nutrition assistance program (NAP) effective July 1, 1982. The NAP was to be funded by a block grant with the amounts for each fiscal year established in Pub. L. 97–35. Following publication of an interim rule on March 12, 1982 (at 47 FR 10767), a final rule implementing this legislative provision was published on July 27, 1982.

Under the terms of the July 27, 1982, rulemaking the Commonwealth of Puerto Rico submitted a plan of operation for fiscal year 1982 and 1983 proposing to implement a nutrition assistance program providing benefits in the form of cash. The Department approved the plan and on July 1, 1982, the Commonwealth began issuing checks for nutrition assistance.

On September 8, 1982 the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253) was enacted. This legislation required the Commonwealth to implement a noncash-based program effective October 1, 1983. In the Continuing Resolution for fiscal year 1984, which became Pub. L. 98–107, the termination of the cash-based NAP was delayed for three months allowing the Commonwealth to continue to operate a cash assistance program until January 1, 1984. During these three months consideration was given by Congress to information provided both by the Commonwealth government and the Department of Agriculture favoring the continuation of the cash-based NAP.

In his introductory remarks on H.R. 4252, which later became Pub. L. 98–204, Congressman Panetta indicated that the Committee on Agriculture of the House of Representatives had studied the information that the Commonwealth and the Department had provided. In part the floor manager said, "Based upon the evidence available so far, the agriculture committee believes the current (i.e. cash-based) NPA is worthy of continuation. This program is well administered, has eliminated many of the accountability and integrity problems of the Puerto Rico food stamp program, and enjoys widespread support amoung clients and program workers." 129 Cong. Rec. H 9894 (November 15, 1983). On December 2, 1983 President Reagan signed Pub. L. 98–204 extending to the Commonwealth of Puerto Rico the authority to continue to operate a cash-based nutrition assistance program during the period January 1, 1984 to September 30, 1985.

In addition, Pub. L. 98–204 contains a provision directing the Secretary of Agriculture to conduct a study of the effects of the conversion to a NAP on the nutritional levels of program recipients. As cosponsor of the bill, Congressman Emerson explained this study requirement. The study is to include an assessment of the impact on the nutritional levels of households receiving food assistance in cash as compared to those receiving other forms of nutrition assistance. The Department is also to determine whether the benefits provided are spent for food rather than nonfood items and any other information the Department deems appropriate. The results of the study are to be submitted by March 1, 1985 to the appropriate committees so that the findings can be evaluated during the

consideration of NAP reauthorization and funding.

The regulatory language changes needed to effect this extension are contained in §§ 285.2 and 285.3. The change will result from deleting the word "noncash" prior to each use of the term "nutrition assistance". (The word "noncash" was the insertion made in the May 27, 1983 rulemaking at 47 FR 23804.)

Implementation

The requirement in the interim rule to have a system for checking duplicate participation fully operational by October 1, 1983, received several comments. Two commenters supported the implementation date of October 1, 1983, and one suggested that it be extended by one year. The interim rule also provided for a waiver of this implementation date if a State agency could show why such a waiver is necessary. Almost every State has implemented the requirements of the interim rule on time or has requested and received approval for a waiver. Several States have waiver requests pending. As most States have implemented the requirement to have a duplicate participation detection system already, the October 1, 1983, date for implementation of the system is academic at this time.

The duplicate participation provisions of this final rule are effective 30 days after publication. The Department does not believe that States will have any difficulty with this timeframe as the changes from the interim to the final rule are reductions in required activity or clarifications. Section 272.1(g)(59) has been revised to indicate this.

The implementation date for the cash-based NAP in the Commonwealth of Puerto Rico and the eligibility of certain mental health centers is January 1, 1984. The Commonwealth of Puerto Rico has not taken any action to terminate its cash-based NAP because it anticipated the actions Congress took in extending the NAP until September 30, 1985. Thus the implementation date of January 1, 1984 will present no problem since the NAP operation in the Commonwealth has been continuous.

Corrections

Household Definition Error

The interim rule entitled Duplicate Participation published on March 4, 1983, also contained an amendment to 7 CFR 273.1(a)(1)(iv) to correct a previous error about household definition. In a December 14, 1982 (47 FR 55903) interim rulemaking, the last sentence of § 273.1(a)(1)(iv) said "However, the income (all income included under § 273.9(b)) of the others with whom the individual resides (excluding the income of such individual's spouse) cannot exceed 165 percent of the Food Stamp Program's gross monthly income eligibility standard." It should read "165 percent of the poverty line." No comments were received about this amendment to the regulations. Therefore, the amendment is being adopted by this action as originally set out in 7 CFR 272.1(g)(59)(ii) on March 4.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Food stamps, Fraud, Grants programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 285

Accounting, Food assistance programs, Grant programs—Agriculture, Grant programs—social programs, Intergovernmental relations, Puerto Rico, Technical assistance, Reporting and recordkeeping requirements.

Therefore, 7 CFR Parts 272, 273, 274, and 285 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, paragraph (g)(59) is revised to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) Implementation. * * *

(59) *Amendment No. 243.* (i) State agencies shall implement the provisions contained in § 274.1(d) statewide no later than October 1, 1983. FNS will consider requests for waivers to this timeframe on a State-by-State basis if the State agency establishes good cause through submission of written justification of the need for a longer timeframe and submits a plan that shows when the system will be implemented.

(ii) State agencies shall implement the correction made to § 273.1(a)(1)(iv) retroactive to September 8, 1982.

(iii) The Commonwealth of Puerto Rico shall implement the changes to Part 285 on January 1, 1984, as published in the **Federal Register** for December 21, 1984.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. The amendment to § 273.1(a)(1)(iv) as published at 48 FR 9214, March 4, 1983, is adopted as final without change.

PART 274—ISSUANCE AND USE OF FOOD COUPONS

1. In § 274.1, paragraph (d) is revised to read as follows:

§ 274.1 State agency issuance responsibilities.

* * * * *

(d) *State monitoring of duplicate participation.* (1) Each State agency shall establish a system to assure that no individual participates more than once in a month in the Food Stamp Program. To identify such individuals, the system shall use names and social security numbers at a minimum, and other identifiers such as birth dates or addresses as appropriate.

(i) Each State agency shall check to assure that no individual receives food stamps in more than one jurisdiction or in more than one household within the State. Checks to detect duplicate participation shall be made at the time of certification, recertification, and whenever a new member is added to the existing household. However, if the State agency can show that these timeframes are incompatible with its system, then the State agency shall check for duplicate benefits at least quarterly.

(ii) If the State agency detects a large number of duplicates, it shall implement other measures, such as more frequent checks or increased emphasis on prevention.

(iii) If the State agency provides assistance in lieu of coupons for SSI recipients or for households participating in cash-out demonstration projects, the State agency shall check to assure that no individual receives both coupons and other benefits provided in lieu of coupons. Checks to detect individuals receiving both food coupons and cash-out benefits shall be made at the time of certification, recertification, and whenever a new member is added to the existing household. However, if the State agency can show that these timeframes are incompatible with its system, then the State agency shall check for duplicate benefits when necessary, but no less often than annually.

(2) Processing standards for duplicate participation checks at certification and recertification.

(i) If the State agency chooses to check at the time of certification and recertification, the check for duplicates shall not delay processing of the application and provision of benefits beyond the normal processing standards in § 273.2(g).

(ii) If a duplicate is found in making such a check, the hit needs to be resolved in accordance with §273.2(f)(4)(iv) before the application can be processed and benefits provided. Delays in processing caused by this reduction shall be handled in accordance with § 273.2(h).

(3) State agencies shall develop follow-up procedures and corrective action requirements, including timeframes within which action must be taken, to be applied to data obtained from matching for duplicate participation. Follow-up actions shall include, but not be limited to, the adjustment of benefits and eligibility, filing of claims, disqualification hearings, and referrals for prosecution, as appropriate.

(4) FNS reserves the right to review State agencies' use of data obtained from matching for duplicate participation and may require State agencies to take additional specific action to ensure that such data is being used to protect program integrity.

* * * * *

PART 285—PROVISION OF A NUTRITION ASSISTANCE GRANT FOR THE COMMONWEALTH OF PUERTO RICO

§ 285.2 [Amended]

1. In § 285.2(a), the first sentence is amended by removing the word "noncash" before the words "food assistance" wherever it appears.

§ 285.3 [Amended]

2. In § 285.3, paragraph (b)(3)(i) is amended by replacing the period at the end of the first sentence with a semicolon and removing the remainder of the paragraph.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: December 14, 1984.

Robert E. Leard,

Administrator.

[FR Doc. 84–33187 Filed 12–20–84; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

7 CFR Parts 420, 421, 424, 432, 434, 435, 436, and 437

[Docket No. 1829S]

Crop Insurance Regulations—Various

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Tobacco, Corn, Cotton, Grain Sorghum, Rice, and Canning and Freezing Sweet Corn Crop Insurance Regulations, effective for the 1985 crop year only, by changing the date for filing contract changes specified in the policies for insuring such crops. The intended effect of this rule is to provide additional time in which to file changes made in the Actuarial Tables for such crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: *Effective Date:* December 21, 1984.

Comment Date: Written comments, data, and opinions on this interim rule must be submitted not later than February 19, 1985, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512–1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this interim rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 16 of the policy for each of the crops affected hereby provides that any changes in the contract must be placed on file in the service office by a certain date. The contract consists of the application, the policy, and the actuarial table. Due to contemplated program changes the volume of work involved in making changes on the Actuarial Table for each crop insured in each county where such insurance is offered requires that in the counties where changes in the contract must be on file by December 31, 1984, the date must be extended to January 15, 1985 (in 7 CFR 434.7(d)16 and 435.7(d)16, the date will be January 30, 1984), effective for the 1985 crop year only.

The crop insurance regulations affected by this rule are:

Citation	Crop
7 CFR Part 420	Grain sorghum.
7 CFR Part 421	Cotton.
7 CFR Part 424	Rice.
7 CFR Part 432	Corn.
7 CFR Part 434	Tobacco (dollar plan).
7 CFR Part 435	Tobacco (quota plan).
7 CFR Part 436	Tobacco (guarantee plan.
7 CFR Part 437	Canning and freezing sweet corn.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing for a period for public comment before such publication. Program changes specifically the change to mandatory APH require a large number of changes in the Actuarial Tables for the crop insurance policies affected by this rule for the 1985 crop year. Without these changes, the

statutory mandate that the program be actuarially sound could not be met. The workload involved in the large number of actuarial changes will not permit filing of these actuarial tables in the counties by the present contract date of December 31. There is not sufficient time to provide for public comment and implement these changes prior to December 31. It has been determined that the date by which such changes are required to be placed on file in the service office shall be extended from December 31, 1984 until January 15, 1985 (in 7 CFR 434.7(d)16 and 435.7(d)16, the date will be January 30, 1984), and made effective for the 1985 crop year only. The changes in the actuarial tables for the crops affected by this rule may be beneficial in some instances and detrimental in others. All policyholders should be aware of the changes in the actuarial table affecting their individual crop insurance contract, and of the additional time provided for FCIC to file such changes.

FCIC is soliciting public comment on this rule for 60 days after publication in the **Federal Register.** This rule will be scheduled for review in order that any amendment made necessary by public comment may be published in the **Federal Register** as quickly as possible.

List of Subjects in 7 CFR Parts 420, 421, 424, 432, 434, 435, 436, and 437

Crop insurance; Tobacco, Grain Sorghum, Cotton, Rice, Corn, Canning and freezing sweet corn.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Grain Sorghum, Cotton, Rice, Corn, Tobacco, and Canning and Freezing Sweet Corn Crop Insurance Regulations (7 CFR Parts 420, 421, 424, 432, 434, 435, 436, and 437, respectively), effective for the 1985 crop year only, in the following instances:

1. The Authority Citation for 7 CFR Parts 420, 421, 424, 432, 434, 435, 436, and 437, is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 420.7(d)16, 421.7(d)16, and 432.7(d)16, are revised to read as follows:

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31, preceding the cancellation date for counties whith an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties except that, for the 1985 crop year only, all contract changes will be available at your service office by January 15, preceding the cancellation date for counties with an April 15 cancellation date and by December 17 preceding the cancellation for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

3. 7 CFR 424.7(d)16, 436.7(d)16, and 437.7(d)16 are revised to read as follows:

16. *Contract changes.*

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31, preceding the cancellation date except that, for the 1985 crop year only, all contract changes will be available at your service office by Janaury 15, 1985. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

4. 7 CFR 434.7(d)16, and § 435.7(d)16 are revised to read as follows:

16. *Contract Changes.*

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31, preceding the cancellation date except that, for the 1985 crop year only, all contract changes will be available at your service office by January 30, 1985. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

Done in Washington, D.C., on November 1, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: December 18, 1984.

[FR Doc. 84–33203 Filed 12–20–84; 8:45 am]

BILLING CODE 3410–08–M

Federal Grain Inspection Service

7 CFR Part 800

General Regulations

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirements of Executive Order 12336, that no regulation may contain reference to gender, the Federal Grain Inspection Service (FGIS) has reviewed its regulations under the United States Grain Standards Act (Act), as amended, and is amending these regulations to remove all references to gender.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, RM, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: Through this final action, FGIS is removing all reference to gender from its regulations under the Act. This action will amend the regulations to comply with the requirements of Executive Order 12336 which provides, in general, that no regulation may contain references to gender. Gender references not presented herein are being removed in separate actions currently under proposal. Because this is a nonsubstantive change to a rule of Agency organization, procedure, or practice, this rule is exempt from the general notice of proposed rulemaking provisions in 5 U.S.C. 553 and, as such, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply. This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

Accordingly, 7 CFR Part 800 is amended as follows:

Part 800—General Regulations

1. The authority citation for Part 800 reads as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 800.0 is amended by revising paragraphs (b)(2) and (b)(89) as follows:

§ 800.0 [Amended]

* * * * *

(b) * * *

(2) *Administrator.* The Administrator of the Federal Grain Inspection Service or any person to whom authority has been delegated.

* * * * *

(89) *Secretary.* The Secretary of Agriculture of the United States or any

person to whom authority has been delegated.

* * * * *

3. Section 800.2 is revised as follows:

§ 800.2 Administrator.

The Administrator is responsible for the administration of the Act and, pursuant to section 3A of the Act, the delegated responsibilities under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). The Administrator is responsible for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of the Act and the Agricultural Marketing Act of 1946. The regulations promulgated under the Agricultural Marketing Act of 1946 appear at Part 68 of this title (7 CFR Part 68). The Administrator is authorized to take any action required by law or considered to be necessary and proper to the discharge of the functions and services under the Act and the Agricultural Marketing Act of 1946. The Administrator may delegate authority to the Deputy Administrators, Division Directors, and other appropriate officers and employees. The Administrator may, in emergencies or other circumstances which would not impair the objectives of the Act, suspend for a period determined by the Administrator any provision of the regulations or official grain standards. The Administrator may authorize research; experimentation; and the testing of new procedures, equipment, and handling techniques to improve the inspection and weighing of grain. The Administrator may waive the official inspection and official weighing requirements pursuant to section 5 of the Act.

4. Section 800.46(b)(6) is revised as follows:

§ 800.46 Requirements for obtaining official services.

* * * * *

(b) *General requirements.* * * *

(6) *Observation of activities.* Each applicant for official services must provide any interested person, or their agent, an opportunity to observe sampling, inspection, weighing, and loading or unloading of grain. Appropriate observation areas shall be mutually defined by the Service and facility operator. The areas shall be safe and shall afford a clear and unobstructed view of the performance of the activity, but shall not permit a close over-the-shoulder type of observation by the interested person.

* * * * *

Dated: December 17, 1984.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84-33206 Filed 12-20-84; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 495]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 235,000 cartons during the period December 23-29, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: Effective for the period December 23-29, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on December 18, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date unitl 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.795 is added as follows:

§ 910.795 Lemon Regulation 495.

The quantity of lemons grown in California and Arizona which may be handled during the period December 23, 1984, through December 29, 1984, is established at 235,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 19, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-33375 Filed 12-20-84; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1930, 1944, and 1965

Security Servicing for Multiple Family Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations regarding security servicing for Multiple Family Housing loans. This action is necessary in order to reflect changes which have previously occurred in the respective loan programs involving rural rental housing, farm labor housing, rural cooperative housing, and rural housing site loans. This action also incorporates changes desired by borrowers and FmHA field staff which

will allow more efficient operation of the programs. The intended effect of this action is to improve the response time by FmHA to servicing requests from borrowers and establishing a uniform procedure for processing these requests and the accompanying servicing actions.

DATE: January 22, 1985.

FOR FURTHER INFORMATION CONTACT: Dean Greenwalt, Branch Chief, Multiple Family Housing Servicing and Property Management Division, Room 5321–S, Farmers Home Administration, USDA, 14th and Independence Avenue, S.W., Washington, D.C. 20250. Telephone (202) 382–1615.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there is no significant increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There are no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance numbers and titles for programs affected by this action are: 10.405 Farm Labor Housing Loans and Grants, 10.411 Rural Housing Site Loans, 10.415 Rural Rental Housing Loans, 10.247 Rural Rental Assistance Payments.

There is no impact on proposed budget levels, and funding allocations are not affected because of this action. We have determined that this regulation maximizes net benefit to society at the lowest net cost.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the Human Environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

For the reasons set forth in 7 CFR 3015, Subpart V (48 FR 29112, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This revised regulation clarifies the security servicing activities relating to the rural rental housing (RRH), rural cooperative housing (RCH), farm labor housing (LH), and rural housing site (RHS) loan programs.

The regulation being replaced by this revision was found to impede the timely processing of servicing actions and impose restraints not necessary for program administration. The revised FmHA regulations also clarify the assignment of security servicing responsibilities for these loans at the State and District Office level. FmHA loans will continue to be serviced according to the security instruments of the loan in a manner which will assure that the long-term loan objectives are met and are consistent with the respective loan program requirements. These regulations will also improve the Agency's ability to assure the continued availability of the facilities financed under the FmHA Multiple Housing programs to eligible users.

On March 12, 1984, FmHA published in the **Federal Register** (49 FR 9192) a notice of proposed rulemaking setting forth the proposed changes in the regulation. Interested parties were given the opportunity to submit, not later than May 11, 1984, any comments, views, or recommendations regarding the proposed changes. During this period 23 comments were received.

The final rule contains revisions to the proposed rule which reflect FmHA's consideration of the comments received as well as other information available to FmHA. The final regulation also reflects recent experiences between borrowers and the FmHA staff at the District, State, and National levels. The following is a discussion of the comments received and the significant changes made:

1. Section 1965.52 received one comment, indicating that the District Director equivalent in Alaska is identified as an Area Loan Specialist. We concur with this comment and have revised the definition accordingly.

2. Section 1965.58 was revised to incorporate references to the current FmHA Multiple Housing Information System Tracking and Retrieval System, to include a specific delegation authority for State Directors, and clarify the State Directors responsibility in assuring that the District Offices carry out their responsibilities.

3. Section 1965.61(g) which referenced changing project designation has been removed from the regulation. The changes which were included in the proposed regulation are being moved to 7 CFR, Part 1930, Subpart C and will appear in future proposed rules affecting borrower supervision. This change was made because it is more consistent with the provisions governing borrower supervision and project management as specified in that regulation.

4. Section 1965.63 received several comments. Accordingly, clarifications were made in this Section to more clearly identify when the provisions governing a change of membership apply. Specifically, we have clarified that ownership changes totalling 100 percent within any consecutive 12 month period will be processed as a transfer under § 1965.65. This change was made at the request of several respondents who indicated that the proposed rule was not satisfactorily clear. This Section was also clarified to identify the information which is required from limited partners being admitted into a limited partnership. Several respondents indicated that the information required in the proposed regulation was unnecessary because the limited partners do not have control of project ownership or management decisions. We concurred with the comments made and added a new paragraph specifically involving the admission of limited partners in a limited partnership. Other editorial changes were made to clarify which of the actions pertain to the admission of general partners and which actions pertain to the admission of limited partners.

5. Section 1965.65 received comments which indicated a need to further clarify the hardship provisions involved in processing transfers less than 5 years old. Accordingly, this Section was revised at the request of the commentors. Revisions were also made to the proposed rule to clarify the State Director's authority to approve transfers, to determine the adequacy of security, and to accept appraisals in specified cases which have been provided by non-FmHA employees. Other comments were also made concerning the transfer of loans to the spouse of a deceased borrower and appropriate changes were made to affect the transfer to the surviving spouse without requiring a complete transfer submission. Additionally, we received comments concerning the establishment of the initial investment for transfers from full profit and nonprofit borrowers to limited profit borrowers. Based upon these comments, the regulation was revised to provide the State Director with the necessary authority to determine this initial investment. One comment was received

which indicated that concern should be given to the remaining economic life of the project being transferred when the original term is extended. We concur with the commenter's suggestion that the economic life of the project should be considered and have included that change. As a result of incorporating these comments, some items were also renumbered. Other minor editorial changes were also made to this Section to correct typographical errors, grammar, and sentence structure.

6. Section 1965.68 was revised based upon comments received which indicated a lack of clarity about the consolidation of loan agreements and loan resolutions. Appropriate revisions have been made accordingly. Another commentor also indicated a problem concerning the possibility that security instruments would be inappropriately released during the consolidation of loan agreements or loan resolutions. Again, this comment was accepted and incorporated into the final rule.

7. Section 1965.70 has been revised based upon comments concerning the comparability of rents for similar units in the area. Concern was also raised regarding the need for an appraisal when the present borrower is requesting permission to reschedule the remaining payments within the balance of the original term of the loan. This comment was again accepted by FmHA and appropriate revision has been made to permit the approval official to process the reamortization provided he or she is satisfied that there is adequate security and that the Government's security position will not be diminished. Other minor editorial changes were also made to correct typographical errors.

Section 1965.75 received one comment concerning the possibility of a project being occupied without rent being collected, the eligibility of occupants not being determined, and the borrower otherwise failing to comply with the objectives of the loan. This commentor indicated that this should be a basis for considering the project abandoned and requested that FmHA consider taking appropriate action to protect the interest of the Government and the tenants. Accordingly, this Section has been revised to incorporate actions to rectify that concern. Another commentor also indicated that the authorities for selection of a caretaker or management agent were unclear. Accordingly, additional clarification has been provided.

Section 1965.77 received comments concerning the acceptance of offers for easements for which only minimal or no consideration was being offered. These situations apparently exist in cases where public bodies, utilities, or other public services are being provided to the project. Based on the comments received, we have incorporated the authority to accept and grant rights of ways with minimal or no consideration and to accept a value determination for such easements which has been provided by competent sources at no cost to the Government when such determination is mutually acceptable to the borrower and FmHA.

Section 1965.85 received a comment regarding the cancellation of the outstanding interest credit agreement when the project has been processed for liquidation due to defaults by the borrower. Based upon this comment, we have clarified the process by which the interest credit agreement will be cancelled after the appeal has expired.

Section 1965.90 has one commentor bring to our attention the possibility that the prepayment restrictions were not properly being implemented. Upon further review of the proposed regulation and the authorizing statute, this Section was revised to eliminate any confusion which may have existed and to make editorial changes affecting grammar, punctuation, and sentence structure. This Section was also revised to reflect the changes specified in earlier parts of this regulation whereby the project may become subject to the prepayment restrictions as a result of servicing actions (transfers on new terms, reamortization, etc.) authorized under this Subpart.

Section 1965.92 had a commentor indicate that the requirement for providing information to the Internal Revenue Service (IRS) could be considered unnecessary. Upon reviewing the type of information submitted, as well as the concerns of the commentor, we determined that a minor editorial change in this Section would be enough to provide for submission of this information to IRS at only their request. This will eliminate much of the possible confusion which would result by providing this information on a random basis.

Throughout this regulation, minor editorial changes were also made to correct typographical, punctuation, and sentence structure errors. The intent and basic policy remained unchanged. No comments were received on the proposed change to 7 CFR Part 1944, Subpart E. However, it was changed to correct a typographical error.

As a result of the renumbering made to 7 CFR Part 1965, Subpart B, § 1965.65, it is also necessary to correct one procedural reference in 7 CFR Part 1930, Subpart C, Paragraph XV of Exhibit E has been revised to reflect the correct citation.

List of Subjects

7 CFR Part 1944

Administrative practice and procedure, Aged, Handicapped, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Nonprofit organizations, Rent subsidies, Rural housing.

7 CFR Part 1965

Administrative practice and procedure, Low and moderate income housing—Rental, Mortgages.

Therefore, for the reasons stated above, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1930—HOUSING

Subpart C—Management and Suprvision of Multiple Housing Borrowers and Grant Recipients

1. Exhibit E is amended by changing the reference in the last sentence of part XV from "§ 1965.65(c)(14)" to "§ 1965.65(c)(11)."

PART 1944—HOUSING

Subpart E—Rural Rental Housing Labor Policies, Procedures, and Authorizations

2. Section 1944.211 is amended by adding paragraph (a)(11) to read as follows:

§ 1944.211 Eligibility requirements.

(a) * * *

(11) Be willing to honor the long term commitment associated with receipt of a Section 515 loan. Borrowers or principals of borrower organizations, who have sold or transferred loans less than 5 years old will not be considered eligible for further participation in the program as a borrower or principal (i.e., a general partner in a limited partnership) for at least 5 years from the date of the loan or assumption closing. The State Director may waive this provision only if the transfer or sale was authorized and closed prior to January 22, 1985 or under the hardship provisions of § 1965.65(a)(4) of Subpart B of Part 1965, and the applicant meets all other eligibility requirements.

* * * * *

PART 1965—[AMENDED]

3. Subpart B of 1965 is revised to read as follows:

Subpart B—Security Servicing for Multiple Housing Loans

Sec.
1965.51 General.
1965.52 Definitions.
1965.53–1965.54 [Reserved]
1965.55 Authority of State Director.
1965.56–1965.57 [Reserved]
1965.58 Responsibilities.
1965.59–1965.60 [Reserved]
1965.61 General loan servicing requirements.
1965.62 [Reserved]
1965.63 Issuance or transfer of stock, or change in membership, or membership interests in organizations indebted to FmHA.
1965.64 [Reserved]
1965.65 Transfer of real estate security and assumption of loans.
1965.66–1965.67 [Reserved]
1965.68 Consolidation.
1965.69 [Reserved]
1965.70 Reamortization.
1965.71 [Reserved]
1965.72 Deceased borrower.
1965.73 Bankruptcy and insolvency.
1965.74 Divorce actions.
1965.75 Abandonment.
1965.76 [Reserved]
1965.77 Consent to sale or other disposition of security property.
1965.78 [Reserved]
1965.79 Subordination.
1965.80 [Reserved]
1965.81 Severance agreements.
1965.82 [Reserved]
1965.83 Consent to junior liens.
1965.84 [Reserved]
1965.85 Default and liquidation.
1965.86 [Reserved]
1965.87 Miscellaneous security.
1965.88 [Reserved]
1965.89 Obtaining additional security for inadequately secured loans.
1965.90 Payment in full.
1965.91 Servicing loans in formerly eligible areas.
1965.92 Information to be provided to IRS on RRH transfers, voluntary conveyances, foreclosures, and 100% membership changes.
1965.93 [Reserved]
1965.94 State Supplements.
1965.95 [Reserved]
1965.96 Nondiscrimination.
1965.97 Exception authority.
1965.98–1965.99 [Reserved]
1965.100 OMB Control Number.

Exhibit A—Notice of Prepayment

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

§ 1965.51 General.

This subpart prescribes the policies, procedures, and authorizations for servicing and liquidating all Farmers Home Administration (FmHA) multiple housing type loans and labor housing grants. These loans include Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Rural Housing Site (RHS), and Farm Labor Housing (LH). The servicing functions described in this subpart are for the purpose of assisting the borrower in meeting the objectives of the loan, repaying loans on schedule, complying with FmHA agreements and regulations, protecting the interest of FmHA, and maintaining the security property. Borrowers will be required to pay their debts to the FmHA and other creditors according to their agreements. Borrowers shall be required to operate their facilities according to FmHA regulations and applicable State and local laws and regulations. State Directors with the assistance of the Office of General Counsel (OGC) should issue necessary State Supplements to assure compliance with State laws. After careful analysis, and borrower in default who does not evidence prospects of attaining successful operations within a reasonable time will have its loan(s) liquidated according to authorizations contained in this subpart and Subpart A of Part 1955 of this chapter.

§ 1965.52 Definitions.

(a) *Borrowers.* "Borrowers" means all individuals, partnerships, cooperatives, trusts, public agencies, private or public corporations, and other organizations which have received a loan or grant from FmHA for LH, RRH, RCH, or RHS purposes.

(b) *Case file.* "Case file" includes the total cumulative records concerning a borrower.

(c) *District Director.* For the purpose of this subpart, the term also includes the Assistant District Director, and other qualified District Office staff who may be delegated responsibilities under this subpart according to the provisions of Subpart F or Part 2006 (available in an FmHA office). Area Loan Specialists and Island Directors, and other qualified members of their staff in Alaska and Hawaii, respectively, are included in this definition. In the case of LH loans still being serviced in the County Office, this definition also includes qualified County Office staff.

(d) *FmHA.* "FmHA" means the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture; it also includes FmHA's predecessor agencies.

(e) *Governing body.* "Governing body" means those elected or appointed officials of an organization or public agency type borrower responsible for compliance with the security instruments and the operations of the project.

(f) *Mortgage.* "Mortgage" also includes deeds of trust and similar real estate security instruments and, where appropriate, chattel security instruments.

(g) *Note.* "Note" includes any note, bond, assumption agreement, or other evidence of indebtedness, including the obligations of LH grant only recipients operating under a grant agreement. All LH grant only recipients will be serviced in strict accordance with their grant agreement, appropriate program regulations, and this subpart.

(h) *OGC.* "OGC" means the Regional Attorney or the Attorney in charge in the field office of the Office of General Counsel of the United States Department of Agriculture.

(i) *Servicing.* "Servicing" includes the broad scope of activities undertaken by FmHA to see that the objectives of the loan are carried out; to assure compliance with the respective policies, procedures and authorizations set forth for each respective loan program; or to bring to a successful conclusion each loan or grant made by FmHA through transfer, sale, reamortization, payment or liquidation.

§§ 1965.53–1965.54 [Reserved]

§ 1965.55 Authority of State Director.

(a) Each State Director is authorized to perform the following functions upon determining that the action will not be to the financial detriment of FmHA:

(1) Require additional security in accordance with § 1965.89 of this subpart.

(2) Require borrowers to carry insurance of the types and amounts determined necessary on the real estate and chattel property mortgaged to the FmHA. The borrower must carry adequate liability insurance as required by Exhibit B, paragraph XV B 3 of Subpart C of Part 1930 of this chapter. Evidence of insurance is required for Multiple Housing loans according to the provisions of Subpart A of Part 1806 of this chapter (FmHA Instructions 426.1).

(3) Approve the issuance of transfer of stock, change of beneficial interest, change of membership, admittance of new or substitute partners, or withdrawal of partners from a partnership; provided, the State Director determines that the requirements of § 1965.63 of this subpart have been met, and that the change will not jeopardize the successful operation of the project, the soundness of the loan, or the eligibility of the borrower.

(4) Approve transfers with assumption of FmHA loan accounts when all development has been completed and the unpaid principal balance and accrued interest does not exceed the

State Director's loan approval authority as set forth in Subpart A of Part 1901 of this chapter for the type of loan(s) involved. Transfers will be processed according to § 1965.65 of this subpart.

(5) Approve the reamortization of FmHA indebtedness that is within the State Director's loan approval authority as set forth in Subpart A of Part 1901 of this chapter for the type of loan(s) involved according to the provisions of § 1965.70 of this subpart.

(6) Consent to the sale, exchange, or release of security property according to the applicable provisions of § 1965.77 of this subpart.

(7) Accept payment of RRH, RCH and LH loans subject to the provisions of § 1965.90 of this subpart.

(8) Approve subordination of FmHA lien position if the total debt against the security after the transaction is within the State Director's approval authority as set forth in Subpart A of Part 1901 of this chapter for the type of loan(s) involved according to the provisions of § 1965.79 of this subpart.

(9) Approve requests from borrowers for the creation of additional indebtedness on the security property. Such approvals must take into account the provisions of loan resolutions or other agreements with FmHA and other existing creditors. If the proposed additional debt would make the total outstanding obligations of the borrower exceed the FmHA loan approval limit of the State Director as set forth in Subpart A of Part 1901 of this chapter, complete documentation and the State Director's recommendations must be sent to the National Office for prior review and authorization to approve.

(10) Renew existing security instruments in accordance with FmHA State Supplements after consulting with OGC.

(11) Approve, with the concurrence of OGC, changes in a borrower's legal organization such as revisions to certificates of limited partnership, partnership agreements, articles of incorporation or charter, bylaws, or trust agreements when the changes proposed will promote better borrower organization and business operation, and will not adversely affect the repayment of the loan, impair the security rights of the FmHA, or make the borrower ineligible for the existing FmHA loan or grant assistance.

(12) Approve the borrower's execution, extension, renewal, modification, or cancellation of contracts of types not covered elsewhere in this section when the State Director, with the advice of OGC, determines that the action is in the best interests of both the borrower and the FmHA; and, in the case of RRH, RCH, and LH projects, will not be detrimental to the tenants.

(13) Approve the extension or expansion of facilities and services in accordance with the respective loan program regulations when the action will best serve the interest of both the borrower and the FmHA.

(14) Approve the lease of security property according to § 1965.61(e) of this subpart.

(b) The State Director may reject any servicing request not in accordance with the guidelines of this subpart.

(c) Any borrower directly and adversely affected by action under this subpart will be granted the appropriate appeal rights according to Subpart B of Part 1900 of this chapter.

(d) The State Director may request from the National Office any authority not specifically delegated to the State Director. Written requests consistent with the intent and requirements of each respective loan program must be submitted to the National Office for prior authorization and must include the complete docket and the State Director's specific recommendations.

§§ 1965.56–1965.57 [Reserved]

§ 1965.58 Responsibilities.

(a) District Directors will:

(1) Keep sufficiently informed of borrower operations to know whether they are operating successfully and complying with their obligations to the FmHA.

(2) Furnish borrowers with information, notices, reminders, fair housing posters, advice and assistance, and take other actions regarding the loan obligations and compliance therewith as considered necessary to determine whether borrowers are operating successfully, are complying with their loan obligations, and are likely to continue with compliance. This includes conducting all civil rights compliance reviews to determine compliance with all appropriate legislation regarding nondiscrimination in federally financed programs, in accordance with Subpart E of Part 1901 of this chapter.

(3) Promptly report to the State Director the failure of any borrower to comply with the terms and conditions of its agreements with FmHA after noncompliance has been brought to the attention of the borrower and recommended corrective action has not been taken.

(4) Furnish training and technical guidance not readily available through other sources to borrowers to protect the FmHA's interests. This training and guidance may relate to business operations, project management, personnel training, membership activities, fair housing requirements and policy, or any other phase which vitally affects the borrower's operations.

(5) Maintain the Management Card System according to FmHA Instruction 1905–A (available in any FmHA office) to assure prompt compliance by borrowers with FmHA requirements relating to repayments, budgets and reports, taxes, insurance and bond renewals, reports required by State law or regulations as indicated in State Supplements, security instrument expirations, and other items of loan and security servicing.

(6) Maintain the official borrower case files according to the requirements of FmHA Instruction 2033–A (available in FmHA State and District offices), and MISTR according to FmHA Instruction 2033, and

(7) Promptly collect FmHA loan payments and service security for the FmHA loans.

(b) State Director will:

(1) Coordinate and direct loan servicing activities relating to borrowers and perform other functions as prescribed by this subpart.

(2) Delegate in writing any authority delegated to the State Director in this subpart unless otherwise restricted, to only those State Office staff members who, in the opinion of the State Director, have been adequately trained and who demonstrate their knowledge in understanding and administering the MFH policies and procedures of FmHA. The individual delegation of responsibility and authority may be limited or expanded in scope, or revoked, as deemed appropriate by the State Director and will be prepared according to FmHA Instruction 2006–F (available in any FmHA office). Unless specifically authorized elsewhere in this subpart, the authorities of the State Director may not be delegated below the State Office staff level. (The State Office staff does not include District Office staff for the purposes of this subpart.)

(3) Ensure that District Directors carry out their responsibilities for loan servicing and provide the District Office with appropriate technical guidance, training and follow-up supervision to service loans.

(4) Coordinate as appropriate with OGC.

(5) Maintain necessary liaison with State and local officials.

§§ 1965.59–1965.60 [Reserved]

§ 1965.61 General loan servicing requirements.

(a) *Payments.* Payments will be handled according to the applicable provisions of Subparts A and B of Part 1951 of this chapter, and Subparts D and E of Part 1944 of this chapter.

(b) *Borrower reports, audits, and analyses.* Borrower reports, audits, and analyses, including the approval or disapproval of annual operating budgets, requests for rent changes, and occupancy problems will be processed and handled according to Subpart C of Part 1930 of this chapter.

(c) *Maintenance.* Project maintenance is of utmost importance. All projects must be adequately maintained by the borrower not only to protect the FmHA's interest, but also to attract potential clients (tenants for rental projects, purchasers for RHS). Maintenance should be reviewed during each supervisory visit and appropriate recommendations made to the borrower. The District Director will inspect the real estate security as required by Subpart C of Part 1930 of this chapter.

(d) *Actions by third parties affecting FmHA security.* Cases including third party action will be handled according to the provisions of § 1872.2(c) of Subpart A of Part 1872 (paragraph II C of FmHA Instruction 465.1), except that references to the County Supervisor shall be construed to mean District Director when applied to multiple housing type programs.

(e) *Lease of security property.* The leasing of property (except to tenants for specific program purposes) serving as security for multiple housing loans and grants other than as indicated in this section is not authorized. Approval of leases by the State District is authorized in the following cases:

(1) *Leases to public housing authorities.* RRH and RCH borrowers may be permitted to renew and continue leasing all or part of the housing facilities to a housing authority with the benefits of the HUD Section 23 leasing program. No new leases will be entered into. The lease will be on a form provided by the housing authority and must be on terms that will enable the borrower to continue the objectives of the loan and make payments on schedule.

(2) *Lease of a portion of the security property.* When the RRH or RCH or LH borrower will continue to operate the facilities for the purpose for which the loan or grant was made, the State Director or his/her designee may approve the leasing of related facilities such as kitchens, laundries, commissary stores, recreation facilities and community buildings, subject to the applicable provisions of § 1944.212 of Subpart E of Part 1944 of this chapter for RRH and RCH and § 1944.158 of Subpart D of Part 1944 of this chapter for LH and under the following conditions:

(i) The lease is advantageous to the borrower and the tenants, and will not impair the FmHA's interest.

(ii) The amount of the consideration is adequate. The consideration must be sufficient to pay all prorated operating and maintenance expenses, a prorated share of the annual reserve deposit, and the prorated part of the loan amortization at the note rate of interest.

(iii) The lease should provide at its termination for the restoration of the leased space to its original condition or a condition acceptable to the owner and FmHA.

(iv) Consent to the lease shall not exceed 1 year at a time unless the State Director determines with the prior written concurrence of the National Office that a longer lease is clearly more advantageous to the borrower, the tenants, and the FmHA.

(v) If foreclosure action has been approved, consent to lease and use of proceeds will be granted only under directions from OGC or the U.S. Attorney, as appropriate.

(vi) When another lienholder's mortgage requires consent of that lienholder to a lease, written consent will be obtained prior to FmHA approval of the lease.

(vii) The authority to approve the lease of laundry facilities or commissary stores may be redelegated in writing to the District Director by the State Director.

(3) *Mineral leases.* Mineral leases will be handled according to § 1872.8(d) of Subpart A of Part 1872 of this chapter (paragraph VIII D of FmHA Instruction 465.1) except that all references to County Supervisor will be construed to mean District Director when applied to the Multiple Housing Programs.

(4) *Processing.* When a borrower requests consent to lease a portion of the security property or the District Director discovers that the borrower is leasing the security without consent, Form FmHA 465–1, "Application for Partial Release, Subordination or Consent," will be prepared.

(i) The form will show the terms of the proposed lease and will specify the use of proceeds, including any proceeds to be released to the borrower.

(ii) The form will be submitted through the District Director to the State Director, along with a copy of the lease, official borrower case files, the District Director's comments and recommendations, and any other information pertinent to the transaction.

(iii) The State Director will review the material, obtain the guidance of OGC prior to indicating approval or disapproval on Form FmHA 465–1, and provide additional servicing instructions to the District Director.

(f) *Consent of lienholders.* Before FmHA consents to any transaction which affects its security or lien position, the written consent of any other lienholders must be obtained. The consent will include an agreement on the disposition of any funds resulting from the transaction and will be consistent with the respective loan program requirements.

§ 1965.62 [Reserved]

§ 1965.63 Issuance or transfer of stock, or change in membership, or membership interests in organizations indebted to FmHA.

Organizations which may be indebted to FmHA include, but are not limited to: public bodies, broadly-based nonprofit corporations, nonprofit organizations of farmworkers, associations of farmers, RCH consumer cooperatives, profit and limited profit corporations, trusts, profit and limited profit general partnerships, and limited partnerships. This section describes the policy of FmHA in approving changes of members, ownership interest, and transfer or issuance of stock in these organizations, to determine the continued eligibility of the borrower entity. It *does not* apply to the sale or exchange of title to the security property, or the conversion from one form of ownership to another such as changing a general partnership to a limited partnership. Stock, partnership, or membership changes which the State Director is not authorized to approve under the conditions of this section will be submitted to the National Office for handling.

(a) *Profit and limited profit corporations, general partnerships, limited partnerships, and trusts.* Ownership changes within the existing borrower entity will be processed as follows:

(1) Ownership changes totalling *100 percent* of the ownership interests in a project within any consecutive 12-month period will be treated as transfers and processed under the provisions of § 1965.65 of this subpart.

(2) Ownership changes in *excess of 50% but less than 100%* within the first five years of loan or assumption closing, will be subject to § 1965.65(a)(4) of this subpart which covers hardship provisions and the restrictions on

subsequent changes. However, changes in only the limited partner interests in a limited partnership will not be subject to the restrictions of § 1965.65(a)(4) of this subpart when completed in accordance with the approved partnership agreement.

(3) Other ownership changes of 50% or less within any consecutive 12 month period will be processed without restriction.

(4) All changes of less than 100% will be processed according to paragraph (e) of this section.

(b) *Public bodies, broadly-based nonprofit corporations, or nonprofit organizations of farmworkers.* FmHA consent will not be required for broadly-based nonprofit corporations or nonprofit organizations of farmworkers indebted to FmHA to change or transfer membership. Each organization, however, must maintain the number and type of members required by its Articles of Incorporation and Bylaws. Organizations will only permit membership changes as authorized by the organizational documents previously approved by FmHA. Should the minimum number of required members in any organization fall below that prescribed by their organizational documents, the following actions will be taken:

(1) The District Director will provide the State Director with a complete written report of the circumstances, including the organization's plan for obtaining additional membership, and the continued operation of the project. The District Director should submit this report only after he or she has personally met with the governing body and found that they will not be able or willing to comply with FmHA requirements. The report should be precise and include recommendations on further servicing actions.

(2) The State Director will review the report and evaluate any adverse effect the noncompliance will have on the loan. If it appears that the interest of the United States will be adversely affected, the State Director will forward the material together with appropriate comments and recommendations, to the OGC for review and guidance in the continued servicing or liquidation of the account as appropriate. The State Director will provide the District Director with instructions for servicing the account.

(c) *Associations of farmers.* Changes in membership will be governed by the organizational documents previously approved by FmHA and any eligibility requirements set forth in program regulations. (See Subpart D of Part 1944 of this chapter.) In those cases where proposed membership changes are not covered in the documents or are in conflict with the provisions of Subpart D of Part 1944 of this chapter, case files will be submitted for National Office consideration.

(d) *RCH consumer cooperatives.* Changes in the membership of RCH consumer cooperatives will be processed according to the provisions of the Subscription Agreement and the Occupancy Agreement. (See Exhibits A and B of Subpart F of Part 1822 of this chapter (FmHA Instruction 444.7) which are available in any FmHA office.)

(e) *Processing organizational membership changes.* Organizations are required by their loan agreement or resolution to obtain prior FmHA consent to transfer stock, or to transfer or change any interest in the borrower entity. (The admission or substitution of limited partners in a limited partnership does not require prior authorization. See paragraph (e)(3) of this section.) Therefore, when organizations request FmHA consent to: issue additional stock, transfer stock, change membership or membership interests other than limited partner interests in limited partnership, admit new or substitute general partners of any kind, withdraw general partners of any kind, alter the beneficiary of the trust, or when such a change has taken place without prior FmHA consent, the District Director shall process and submit Form FmHA 465–1 to the State Director. The State Director is authorized under § 1965.55(a) of this subpart to approve or disapprove these transfers or changes on Form FmHA 465–1. For approval, the State Director must determine that the following conditions have been met:

(1) The borrower has provided a listing showing the name, address, Employer Indentification or Social Security number, and percent of ownership of each member, stockholder, general partner, or beneficiary of a trust that will have an interest in the organization.

(2) All new or substitute general partners, and all new or substitute trustees, members, stockholders in privately held corporations, or beneficiaries that will hold an interest in the organization in excess of 10 percent have submitted a current, dated, and signed financial statement showing assets and liabilities, with information on the states and repayment schedule of each debt. (The admission of limited partner in a limited partnership is addressed in § 1965.63(e)(3) of this subpart.) In cases involving publicly held corporation borrowers, borrowers will be required to notify FmHA of stockholders admitted to the organization in accordance with the approved articles of incorporation and bylaws. However, FmHA consent is required when there are changes in the overall corporate management or in the organizational documents. (All other changes in stockholders in publicly held corporations are subject to the requirements of this section.) All financial statements submitted must comply with the reporting requirements set forth in Exhibit A–6 to Subpart E of Part 1944 of this chapter. A resumé must also be submitted, together with a statement setting forth any identity of interest as described in Exhibit A–6 to Subpart E of Part 1944 of this chapter. The resumé should explain the past performance, experience, qualifications, and abilities of the individual or organization, who is obtaining an interest in the borrower organization. A determination must be made before approval that the incoming individual or organization described in this section will not adversely affect the borrower's continued eligibility under the requirements of Subpart E of Part 1944 of this chapter.

(3) The admission of limited partners in a limited partnership on the basis of the limited partnership agreement previously approved by FmHA does not constitute a change requiring redetermination of eligibility. Borrowers admitting new or substitute limited partners are however required to notify FmHA at least annually with a listing showing the name, address, Taxpayer Identification number, and percent of ownership of each new or substitute limited partner. The borrower must also provide copies of any amendments to the organizational documents effecting such changes in the organization together with an opinion from the borrower's attorney certifying that the changes in limited partner interests have been completed in accordance with the approved partnership agreement.

(4) The borrower is unable to provide the housing or other facilities from its own resources and is unable to obtain the necessary credit from private or cooperative sources on terms and conditions that would enable the borrower to refinance the FmHA indebtedness and operate the project for amounts within the payment ability of those eligible to occupy the housing or benefit from the project. When tenants are benefiting from any FmHA or other Government subsidy program, the continued availability of the subsidy will be considered in making this decision. For profit and limited profit organizations, the assets of the

individual general partners, members or stockholders will also be considered.

(5) The type of change must not adversely affect the operations of the project. *Liens may not be taken against the FmHA security.* Payments on any debt incurred for the purchase of the stock or interest in the organization will *not* be considered authorized debt payments and will not be included in project operations as a budgeted expense. In those cases where the withdrawing member or ownership interest proposes to use a security agreement or other document to secure an equity payment, the State Director must determine that:

(i) The payment is not contingent on the planned sale of the project or additional owership interests;

(ii) An assignment of interests to secure a promissory note, in the case of a limited partnership, is restricted to the limited partners interests only and *not the general partner* interest;

(iii) In cases other than the limited partner's interest in a limited partnership, that there is no reversionary interest held in the entity; and

(iv) Any security agreement or equity note, clearly indicates the necessity of FmHA approval before any substitutions of interests take place, regardless of any default on the equity note.

(6) In the case of the sale of the interest of a general partner, or the admission or substitution of any general partner, in either a limited partnership or a general partnership, the new or substitute general partner must agree to assume the responsibilities and obligations of the original general partner under the terms of the FmHA promissory note, mortgage, and the borrower's partnership agreements. The assumption of any personal liability of the transferring general partner by the assuming general partner in a limited partnership may be waived by the State Director with the advice of the OGC if the organizational papers require that liability be limited to the asssets of the partnership according to § 1944.21(a)(2) of Subpart E of Part 1944 of this chapter. After consulting OGC, the State Director will require the new or substitute general partner to execute an agreement as follows for the inclusion in position 5 of the official case file:

Assumption of Original or Withdrawing Partner's Obligations

In consideration for being approved by the Farmers Home Administration (FmHA) for admission as a general partner into _____ (the partnership), the undersigned hereby assumes all responsibilities and obligations of _____ under the terms of the Partnership Agreement dated _____, the terms of (a) (all) note(s) or assumption agreement(s) dated _____ in the respective amount(s) of _____, and the terms of the FmHA security instrument(s) taken on the partnership property dated _____ and filed for record in the _____ office at

_____

Document No. or Book and Page No.

_____

Date

_____

Signature of New or Substitute Partner

(7) Any withdrawing stockholder, member, or partner personally liable for the FmHA indebtedness will not be released of liability unless the new stockholder, member, or partner is made personally liable for the FmHA debt on an agreement approved by OGC, and the State Director determines that the assets and net worth of the new stockholder, member, or partner are substantially the same as, or greater than, that of the party to be released.

(8) The State Director must determine that approval of the transaction will not adversely affect the FmHA program in the area, that the objectives of the loan will not be changed, and that the successful operation of the project will not be jeopardized. In making this determination, the State Director must consider the past performance, experience, qualifications and abilities of any individual or organization obtaining an interest in the borrower organization, other than a limited partner holding a minority interest in a limited partnership. Serious consideration must also be given to an individual having a record or reputation for discriminating against individuals because of their race, color, national origin, handicap or other prohibited basis.

(9) Organizational papers must be amended to reflect the changes and a copy submitted to FmHA to be retained in the case files. The amendment should specify that FmHA must approve all membership changes (except the admission of limited partners described in § 1965.63(e)(3) of this subpart) or transfers, if they do not already do so. OGC will review any proposed changes of beneficial interests in a trust to determine that all applicable program requirements have been met.

§ 1965.64 [Reserved]

§ 1965.65 Transfer of real estate security and assumption of loans.

(a) *General.* Borrowers should be properly informed during loan processing that each applicant must have the ability and intention to own and operate the proposed housing project for the purposes for which the loan is made. They should also be advised to properly organize their venture at the outset. As required by FmHA Instruction 2033–G (available in FmHA State and District Offices), the Multiple Family Housing Information Status, Tracking and Retrieval System (MISTR) should be used for tracking and identifying the status of transferors and transferees as a routine part of the transfer and assumption process. Only RHS loans can be approved or closed for applicants that plan to sell their projects within a short period of time.

(1) The requirements of this section apply when:

(i) Title to the security property is transferred;

(ii) An unauthorized sale of a project has occurred or will occur through a land contract or similar contract;

(iii) The liability for the FmHA indebtedness has been or will be assumed by an organization, entity or individual who is not presently liable for the debt;

(iv) There has been or there will be a change in the borrower entity such as, an individual changing to a limited partnership; or

(v) Membership interests within a borrower entity have been or will be changed 100 percent within any consecutive 12-month period as indicated by § 1965.63(a) of this subpart.

(2) When the mortgage or deed of trust requires FmHA consent to the sale or other transfer or real estate security, the borrower should be advised of its provisions. Before firm agreements are reached between the borrower and the proposed purchaser or transferee, the borrower should notify the District Director of the proposed sale or transfer. The District Director shall then explain the requirements of this subpart.

(3) Proposed transfers must not be to the detriment of the FmHA or the tenant. LH loans will only be transferred under this subpart when they will continue to be used to provide housing for farm laborers as defined in Subpart D of Part 1944 of this chapter.

(4) The transfer of projects are defined in § 1944.205(j) of Subpart E of Part 1944 of this chapter, in which the FmHA loan transfer is needed to remove a hardship which adversely impacts the present borrower and was caused by circumstances beyond the borrower's control, such as:

(i) Illness or death of the principals;

(ii) Court order requiring the division of security property;

(iii) The individual borrower faces serious financial difficulties due to

circumstances beyond the borrower's control, which will force him/her out of operation. These circumstances do not include transferring the property to obtain the equity needed to permit the borrower to apply for additional FmHA loans or to raise capital to support the borrower's other financial interests not including the FmHA financed project. Borrowers under this type of hardship must be able to show that they have acted in good faith, demonstrated their managerial skills and financial abilities; and otherwise complied with all other agreements made with FmHA. Hardship transfers due to construction cost overruns will only be considered in the case of individual borrower accounts. (If additional funds are needed to cover cost overruns for any other type of borrower entity, consideration should be given to the admission of new partners, sale of stock, etc., under the provisions of § 1965.63 of this subpart to continue ownership of the project.)

(5) When the State Director determines that a hardship is present and the official case files have been adequately documented to clearly identify the hardship, a transfer may occur without penalty to the transferor. When a hardship is not present and the loan(s) are less than 5 years old, transfer requests should be processed but the transferor (including principals) will be ineligible for further loans or participation in the transferee or other RRH applicant entities for the remainder of the 5-year period. The start of the 5-year period begins on the date of FmHA loan closing and/or any subsequent transfer.

(6) Transfers of RRH projects with initial or subsequent loans (except loans for the purpose of repairs to existing units) that are at least 5 years old will be processed according to the provisions of this subpart without penalty to the transferor. The transferor (including the principals) may continue to participate in the RRH program through new and existing projects assuming he/she has performed satisfactorily and meets the eligibility criteria of § 1944.211 of Subpart E of Part 1944 of this chapter.

(7) In all cases, the purchaser is required to provide evidence of its inability to obtain credit elsewhere on rates and terms that will not cause rental rates in excess of what low- and moderate-income tenants could afford, considering the availability of any rent subsidies that may be available to the project.

(8) A nonrefundable transfer fee will be collected at the time the RRH transfer application is submitted to the FmHA District Office. This fee will equal one quarter of one percent (¼%) of the original loan amount for each loan being transferred to a full profit, limited profit, or ineligible applicant. This fee is not applicable when the transferee is a public body, consumer cooperative or nonprofit corporation as defined by the respective FmHA multiple housing program regulations. This fee will be identified as a transfer fee and submitted to the Finance Office using Form FmHA 1944–9, "Multiple Family Housing Certification and Payment Transmittal," to be credited to the Rural Housing Insurance Fund.

(b) *State Director authority.* The State Director is authorized under § 1965.55(a)(4) of this subpart to approve initial and subsequent transfers, with an appropriate assumption of the FmHA unpaid loan balance(s) when the principal amount (including any authorized junior liens) plus accrued interest is within the State Director's loan approval authority, subject to the following general conditions and requirements:

(1) Transfers will be made to either eligible or ineligible applicants. Eligible applicants are those applicants meeting all of the eligibility criteria as defined by the appropriate loan program regulations. Ineligible applicants are those applicants failing to meet the eligibility requirements for the respective loan type. Transfers to eligible applicants will receive preference over transfers to ineligible applicants, provided recovery to FmHA is not less than it would be if the transfer were to an ineligible applicant.

(i) Transfers to eligible applicants will generally be completed on the basis of the same terms if the loan account is current or can be brought current when the transfer and assumption is closed.

(ii) Transfers to eligible applicants desiring to assume delinquent loans which cannot be brought current at the time of closing, and transfers to ineligible applicants, will be transferred on the basis of new terms.

(2) The approval offical must determine that the security is adequate for the FmHA indebtedness being assumed. If the State Director determines that the total secured FmHA debt(s) exceeds the present market value of the security, the transferee must assume an amount at least equal to the present market value less any prior liens. In those cases, the transferor will be released from liability and the remaining debt will also be processed according to the applicable provisions of Part 1864 of this chapter (FmHA Instruction 456.1). When the present market value of the security equals or exceeds the debt the transferee will assume the total FmHA secured debt(s). Security will be upgraded if necessary to meet FmHA standards.

(3) The transferor should not receive any equity payment unless the *total* unpaid FmHA indebtedness is assumed, all real estate taxes are current, and the FmHA loan payment and the reserve account are on schedule at the time of transfer, less any authorized withdrawals; if the requirements of this paragraph cannot be met, the State Director may request the National Office to authorize an equity payment when all other alternatives, including liquidation, would not be in the best interests of the FmHA and the tenants. Any equity payment due the transferor should be paid in cash at the time of transfer. However, if paid on terms, the terms and conditions must be documented in the file and the transferee must be able to show that the obligations can be met from outside sources of income without jeopardizing the operations of the project. Any equity payment to be made on terms shall *not* be considered an authorized debt payment of the project. Furthermore, any equity payment which is not paid in cash at closing is not authorized unless all of the following conditions are met as part of the transaction:

(i) No rental or other project income (except authorized return to owner as specified in the loan agreement or resolution) will be used to make payments on the note.

(ii) No present or future liens will be attached to the secured property, project operating accounts, or to pay revenue from operation of the property.

(iii) The equity payment to the seller will be provided from outside sources or from any authorized return to owner, and not from a planned sale of the project or additional membership interests beyond those identified in the transferee's organizational documents approved by FmHA.

(iv) The seller does not and will not have a reversionary interest in the FmHA encumbered property.

(v) In the case of a limited partnership, the right of FmHA to approve or disapprove the substitution of general partners in accordance with § 1965.63 of this subpart has not and will not be superseded by any agreement between the purchaser and seller which implies prior concent by FmHA for partner changes in the case of default; and the right to assign partnership interests is restricted to only the limited partner's interests and such right does *not* include the general partner's interests.

(vi) An opinion is provided from the transferee's legal counsel certifying that the financial and other arrangements comply with all FmHA requirements of this section.

(vii) An assignment of project income will be taken by FmHA in accordance with the requirements of § 1944.221(b) of Subpart E to Part 1944 of this chapter as additional security with the advice and guidance of OGC.

(4) If a payment to the transferor is to be made in connection with the transfer, the total FmHA debt on the property must be assumed unless the payment received by the transferor is applied on a prior lien or to the portion of the transferor's FmHA debt not assumed. When the full amount of the FmHA secured debt is assumed and other FmHA debts owed by the transferor are not adequately secured, the State Director may, as a condition of approving the transfer, require that all or a part of any equity payment be applied on those debts.

(5) Upon completion of the transfer there must be no liens, judgments, or other claims against the security being transferred other than those by FmHA and those authorized liens to which FmHA has previously agreed, unless prior written approval is obtained from the National Office.

(6) When the loan(s) is secured by both chattel and real estate, all chattel security must be transferred, sold, or liquidated by the time of closing the transfer of the real estate.

(7) The transferee must complete and submit Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," for the State Director's approval as required by § 1901.203 of Subpart E of 1901 of this chapter.

(8) When the spouse of a deceased individual borrower is not currently liable for the indebtedness, a transfer and assumption to the spouse can be accomplished through the use of Form FmHA 460–9, "Assumption Agreement (Same Terms-Eligible Transferee)," if the account is current, or Form FmHA 460–5, "Assumption Agreement (New Terms)," if the account is not current. If the spouse is determined to be an eligible applicant according to applicable provisions of the respective loan program and this subpart, the approval official may waive the submission by the assuming spouse of any form or material not required by OGC to complete the assumption, if the present forms and materials in the current casefile are otherwise acceptable.

(9) The transfer must be completed with the advice and closing instructions of the OGC.

(10) The rents to the tenants can be increased only if the provisions of paragraph XI of Exhibit B to Subpart C of Part 1930 of this Chapter are met.

(11) The transferee will be required to submit reports according to § 1930.124 of Subpart C of Part 1930 of this chapter.

(c) *Transfers to eligible applicants.* Transfers of security with an assumption of FmHA debts by transferees who are eligible applicants for the type of loan being assumed may be approved subject to the general conditions contained in paragraph (b) of this section and the following:

(1) All necessary repairs to assure that the housing will be decent, safe and sanitary should be made prior to the transfer whenever possible. When repairs cannot be completed prior to closing, the necessary funds will be escrowed and the repairs will be identified, agreed upon prior to closing and documented as specified in § 1924.5 of Subpart A of Part 1924 of this chapter. Also, any improvements required by FmHA to meet the accessibility requirements of Section 15 b.41 of Subpart F of Part 15b of Subtitle A (see § 1944.215(a)(9) of Subpart E of Part 1944 of this chapter) should be considered part of any substantial rehabilitation work undertaken as part of the transfer. All repairs will be in accordance with the provisions of Subpart A of Part 1924 of this chapter. Funds for such improvements or repairs will be from the sources in the following priority: transferor's equity payment; contributions by the transferee; reserve account being transferred provided the amount remaining in the reserve account will be adequate to meet the repairs and expenses in the immediate or near future; if loan funds are available, from the use of an RRH or LH loan when appropriate.

(2) For rental projects, the transferor's project operating accounts, reserve account, any tenant security deposits, any balance remaining in the transferor's supervised bank account which are needed to complete project development, and any equipment purchased with project funds, will be transferred to the transferee. Any RA payments not received by the transferor, will be assigned to the transferee. Every attempt should be made to have the funds in the reserve account at the scheduled level and transferred to the transferee at the time of transfer.

(3) Any excess development funds held in a supervised bank account must be refunded to the respective loan account upon receipt of the transfer request.

(4) A loan and/or grant may be made to the transferee in connection with a transfer subject to the policies and procedures governing the kind of loan and/or grant being made. Loan and/or grant funds may *not* be used, however, to pay equity to a transferor.

(5) The transferees must prepare operating budgets, as required by the appropriate program regulations governing the kind of loan being transferred, covering the first partial year and the next full year's operation. The budgets must be realistic and reflect sufficient funds to pay operation and maintenance expenses, fund any required reserve, and keep the FmHA account(s) current. The charges for the use of the facility or services must be within the payment ability of those it is intended to serve. A current utility allowance must also be prepared when required by program regulations.

(6) For transfers of RRH loan accounts, current executed tenant certifications using Form FmHA 444–8, "Tenant Certification," or a HUD approved form of "Certification or Recertification of Tenant Eligibility" for any tenants receiving Section 8 subsidy, must be on file with FmHA or provided for each tenant, as required by Exhibit B of Subpart C of Part 1930 of this Chapter, evidencing that the units are or will be occupied by tenants meeting the FmHA eligibility requirements when the transfer is closed.

(7) For transfers of RRH and LH loan accounts, all leases should also be assigned to the transferee no later than the date of closing.

(8) The proper type of loan agreement or loan resolution for the type of transferee involved must be in effect and secured in the mortgage or deed of trust at the time of transfer. If changes are needed in the exisiting loan agreement or loan resolution to accomplish this, amendments must be made to the existing loan agreement or resolution secured by the mortgage on the security property with the advice of the transferee's attorney and approval of OGC or by any other method acceptable to OGC. If the RRH transferee wishes to convert to the loan agreement/resolution format of Form 1944–33, "Loan Agreement"; 1944–34, "Loan Agreement"; or 1944–35, "Loan Resolution", as appropriate, the transferee may accomplish this by amending the existing loan agreement/resolution with the advice of transferee's attorney and concurred in by OGC.

(9) A limited profit RRH transferee's initial investment and rate of return in the project will remain the same as that originally provided to the transferor. However, if a loan to a nonprofit or

profit type borrower is being transferred to a limited profit type transferee, the initial investment to be shown in the loan resolution or agreement will be "None" unless an exception is made by the State Director. (The State Director's authority to establish initial investment will not be delegated to other State Office staff.) Any initial investment established by the State Director should not exceed 5 percent of the original loan amount with a rate of return which will not exceed the rate set forth in § 1944.215(l) of Subpart E of Part 1944 of this chapter when the transfer is approved. An exception will be considered when the following conditions are met and fully documented in the casefile:

(i) The transferee contributes funds for repairs or authorized improvements beyond those which would have been paid from the transferor's equity as indicated in paragraph (c)(1) of this Section, or

(ii) The transferee contributed sufficient cash to reduce the loan principal being assumed to no more than 95% of the original development cost (unless an exception is made in writing by the National Office), or

(iii) The transferee's total contributions for the repairs and debt reduction identified in (c)(9) (i) and (ii) of this section, exceed 5% of the purchase price, or

(iv) The transfer is referred to the National Office with the appropriate recommendations and a request to establish an initial investment for the transferee for those cases in which the State Director requests advice and assistance.

(10) If the transfer involves an RRH or RCH loan using interest credit with a Form FmHA 1944–7 or 444–7, "Interest Credit and Rental Assistance Agreement," in effect, it will be replaced by a new interest credit agreement executed by the transferee as of the date of the transfer. RRH and RCH loans will not be converted from a subsidized (interest credit) basis to a nonsubsidized (full profit) basis as part of the transfer process. If the transfer is to be made on a nonprofit or limited profit basis, the transferee may receive interest credit if the loan is eligible for interest credit according to Exhibit B to Subpart E of Part 1944 of this chapter. A new Form FmHA 1944–7 will be executed by the transferee, attached to Form FmHA 460–5 or Form FmHA 460–9, as appropriate, and submitted (simultaneously with any interest credit cancellation for the transferor) to the Finance Office when the transfer is closed.

(11) A transferee may participate in the rental assistance program if the transferor's project is an eligible project and the transferee is an eligible borrower according to Exhibit E to Subpart C of Part 1930 of this chapter. If the transferor participates in the rental assistance program, the transferee may assume the remaining portion of the transferor's rental assistance agreement when the transferee is eligible. When the transferee is assuming the transferor's rental assistance agreement, the transferor's rental assistance agreement will be described on the assumption agreement (Form FmHA 460–5 or 460–9, as appropriate) in Table II giving the date executed, number of units, term of agreement, and the amount of obligation remaining. If the transferee will not be assuming an existing rental assistance agreement, the agreement will be cancelled and the Finance Office notified of the cancellation using Form FmHA 1944–26, "Request For Obligation of Rental Assistance."

(12) If a project operates under the HUD Section 8 program, the Housing Assistance Payment (HAP) contract must also be assigned to the transferee with prior approval from HUD. This approval must be obtained so that the assignment of the HAP contract occurs no later than the closing of the transfer.

(13) The transferee must thoroughly understand all loan requirements including the tenant eligibility, management, reserve account, audit, and reporting requirements of applicable FmHA regulations; and the loan agreement or loan resolution and the content of the signed Form FmHA 400–4, "Assurance Agreement." Before the transfer is closed the District Director shall carefully review with the transferee Subpart L of Part 1944 of this chapter, Subpart C of Part 1930 of this Chapter, the applicable loan program regulations, and the loan agreement or resolution with the transferee.

(14) Release of liability will be considered according to the following:

(i) When all FmHA security is transferred and the total outstanding debt is assumed, the transferor will be released from liability.

(ii) In those cases where the value of the security transferred and debt assumed is less than the full amount of the FmHA debt, the transferor may be released from liability if the State Director determines that the transferor has no reasonable debt-paying ability considering assets and income at the time of the transfer, and certifies that the transferor has cooperated in good faith, has used due diligence to maintain the security property against loss, and has otherwise fulfilled the covenants incident to the loan to the best of the borrower's ability. The approval official must execute a memorandum containing the following statement for inclusion in the official case file.

(Transferor's name), in our opinion, does not have reasonable debt-paying ability to pay the balance of the debt not assumed after considering its assets and income at the time of the transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of its ability. Therefore, we recommend that the transferor be released of personal liability upon the transferee's assumption of that portion of the indebtedness equal to the present market value of the security property.

(d) *Transfers to ineligible applicants.* The transfer of an FmHA loan account to a transferee who is an ineligible applicant for the type of loan involved will be considered only when the transfer is needed as a method for servicing a problem case in which the objectives of the original loan cannot be realized and an eligible transferee is not available. Transfers will not be considered when they basically serve as a method or provide a means by which members of a borrower-organization can obtain an equity payment, or when they serve basically as a method of providing a source of credit for purchasers. The State Director is authorized to approve transfers to ineligible applicants, subject to the general conditions of paragraph (b) of this section and the following:

(1) Ineligible applicants can only be approved when a downpayment is made equivalent to a minimum of 10 percent of the remaining loan balance to be assumed. Each ineligible transferee will be encouraged to make as large a downpayment on the FmHA secured indebtedness as the transferee is financially able.

(2) The transferee must have the ability to pay the FmHA debt(s) according to the assumption agreement and must possess the legal capacity to enter into the contractual agreement.

(3) The balance of the FmHA indebtedness assumed must be scheduled for repayment in 2 years or less for RHS accounts, and usually 10 years or less for other types of multiple family loan accounts. If longer terms are needed for LH, RRH, or RCH projects with multiple unit structures, the State Director may authorize longer terms up to 20 years. (Single Family type structures may be sold on terms for 15 years or less.) Amortized monthly or annual installments will be charged with interest to the transferee at the rate currently applicable to above-moderate RH loans, including insurance charges,

or at the rate of interest specified in the note(s) being assumed, whichever is greater. Form FmHA 460–5 will be executed by the transferee.

(4) The State Director may release the transferor from liability under the same provisions as stated in paragraph (c)(14) of this section only when all of the real estate security for a loan is transferred, the total outstanding indebtedness or that portion of the debt equal to the present market value of the security is scheduled for repayment in five years or less from the date of the assumption agreement.

(5) When an ineligible transferee assumes an FmHA loan where the present borrower has personal liability and it is scheduled for repayment in more than 5 years from the date of the assumption agreement, the transferor must acknowledge their continued liability for the debt by signing an agreement as follows:

Continued Liability Agreement of Present Debtors

The undersigned hereby acknowledges the continued personal liability for the indebtedness owed to the FmHA and assured by ———— (assuming parties) under assumption agreement dated ————.

_____

_____

_____

_____

Date

(The original of the signed agreement will be attached to the original assumption agreement, a copy filed in the transferee's District Office case folder, and a copy provided the transferor.)

(6) Transfers to ineligible applicants of loans made on or after December 21, 1979, will not be authorized without the prior consent and authorization of the National Office. Authorization must be requested in writing and include all the information required in paragraph (e) of this section.

(7) Those loans which are transferred to ineligible applicants will be classified as Other Real Estate (ORE) and serviced according to this subpart to the extent possible. Those cases which cannot be serviced according to this subpart will be forwarded to the National Office for advice and guidance.

(e) *Submission to National Office.* In those cases where the proposed transfer cannot be made in compliance with paragraphs (a) and (b) or (c) of this section, the State Director may submit the entire proposal, complete with all the case files, the State Director's specific recommendations and justifications to the National Office for review, consideration, and any special instructions for handling the account(s). The State Director must have determined prior to submission however, that it is in the best interest of the FmHA to permit the transfer before submitting the proposal for consideration. All transfers where the total indebtedness (principal and interest) exceed the State Director's approval authority must be submitted to the National Office for prior review and authorization to approve the transfer request.

(f) *Processing transfers.* (1) Form FmHA 465–5, "Transfer of Real Estate Security," must be completed to reflect the agreement between the transferor and transferee. The form will be prepared to show all agreements involved such as the proration of taxes and insurance, title, legal and filing fees, equity and method of payment, assignment of project accounts and leases, and other appropriate items. Additional information may also be attached to this form when necessary to fully describe the proposed transaction. The effective date of the transfer is the actual date the transfer is closed and Form FmHA 460–5 or 460–9, as appropriate, is executed.

(2) Form FmHA 460–9 or 460–5 will be executed according to the applicable FMI. The unpaid principal balance and accrued interest to be shown on Form FmHA 460–5 or 460–9 will be computed from Form FmHA 451–26, "Transaction Record," or Form FmHA 451–11, "Statement of Account." The transferee will be advised of the total amount paid as of the closing date which has not been credited to the account, the payment required to place the account on schedule as of the previous installment due date, any payments required to bring any monthly or annual payments current and the amount needed to bring the reserve account current less any authorized withdrawals. If the loan or reserve accounts cannot be brought current or less than the total debt is assumed, the transfer will be closed on new terms at the highest note rate for any loan being transferred in the project or current interest rate, whichever is greater.

(3) When the property transferred will continue to be used for the same or a similar purpose for which Federal financial assistance was extended, the transferee must sign Form FmHA 400–4.

(4) An appraisal will be required for each transfer, except those completed on a same terms basis for which the State Director is satisfied that the security is adequate. (An appraisal will *always* be required for transfers on new terms.) An FmHA designated MFH appraiser will be responsible for preparing an appraisal report within 30 days of the District Office's receipt of the transfer fee when the total indebtedness will not be assumed, or the State Director requires that one must be prepared. (However, the State Director may accept an independent appraisal provided by the transferor or transferee under the conditions later specified in this paragraph when the total debt is being assumed and the FmHA designated MFH appraiser is unable to complete an appraisal within 30 days of the District Offices receipt of the transfer fee.). If the last appraisal is less than one year old and the transfer is within the State Director's authority, the FmHA designated appraiser may supplement the present appraisal report, in lieu of preparing a new appraisal by attaching information on the present market value. A new appraisal will be prepared according to the requirements of FmHA Instruction 1922–B (available in any FmHA office) when the current appraisal is over one year old or when the State Director determines a new appraisal report is needed. The conditions under which the State Director may accept an independent appraisal from the transferor or transferee in lieu of an FmHA prepared appraisal are:

(i) The expense of the appraisal will be paid by the transferee or transferor without obligation to FmHA,

(ii) The appraisal will be prepared by an accredited Senior Real Property Appraiser (SRPA), Senior Real Estate Analyst (SREA) or Member, Appraisal Institute (MAI) real estate appraiser. The State Appraiser/Trainer may accept an appraisal report from other than an accredited SPRA, SREA or MAI appraiser if he or she determines that:

(A) There are no accredited appraisers within a reasonable distance from the project location, and

(B) The individual preparing the appraisal has satisfactorily completed a minimum of *80* hours of accredited appraisal courses.

(iii) The appraisal report form will be Form FmHA 1922–7, "Appraisal Report for Multi-Unit Housing," or the Federal Home Loan Mortgage Corporation form, FHLMC Form 71A, and it will include adequate documentation to support the appraised value and the qualifications of the appraiser.

(iv) The total FmHA debt will be assumed by the transferee.

(v) A review of the appraisal will be made by the State Appraiser/Trainer according to FmHA Instruction 1922–B (available in any FmHA office) using Form FmHA 1922–13, "Reviewer's Appraisal Analysis."

(vi) The appraised value of the property is sufficient to secure the

existing FmHA debt, planned subsequent FmHA loan(s), and any authorized junior liens.

(5) Form FmHA 460–9 will be executed according to the FMI when the full debt will be assumed at the same rate and terms. The loan account(s) must be current at the time of the transfer and the reserve account on schedule, less any authorized withdrawals, if the transfer is to be at the same rate and terms.

(6) Form FmHA 460–5 will be executed according to the FMI when an account cannot be brought current at the time of transfer or less than the full debt is assumed. The loan repayment period may be extended to the maximum term authorized by the appropriate loan program, considering the value and economic life of the security. Transfers on new terms are also subject to the following conditions:

(i) The interest rate charged for all loans except LH loans will be the current rate being charged for those loans, or the highest note rate for any loan in the project being transferred, whichever is greater. The interest rate of LH loans will be the rate specified in the note, except that loans transferred to public bodies, nonprofit organizations of farmworkers, and broadly-based nonprofit corporations for LH purposes may be at a one percent interest rate regardless of the rate specified in the note if the State Director determines that the reduction is necessary in order to maintain rental rates at a level affordable to the tenants. If the State Director determines that the transfer at one percent is necessary for other types of LH transferees, the case should be submitted to the National Office, with the State Director's recommendations and justifications for consideration.

(ii) Loans for RRH and RCH projects which are amortized on an annual payment basis and are transferred on new terms through the use of Form FmHA 460–5, shall be converted to a monthly payment amortization. This may be accomplished by changing the date to be inserted for item 15 of the FMI for Form FmHA 460–5 to the date which is one month from the effective date of Form FmHA 460–5. Also, the words "each January 1" on the fifth line of payment alternative (a) on the reverse of Form FmHA 460–5 should be deleted. In their place should be the word "the" followed by the numerical day of the month in which Form FmHA 460–5 is effective (or 28th, whichever is less), and the words "day of the month."

(iii) All RRH, RCH and LH loans including those approved prior to December 21, 1979, which are transferred to eligible applicants on new terms will become subject to the prepayment requirements of Section 502(c) of Title V, Housing Act of 1949, as amended. The appropriate restrictive language concerning prepayment set forth in § 1944.176(c)(2) of Subpart D of Part 1944 of this chapter for LH loans or § 1944.236(b)(4) of Subpart E of Part 1944 of this chapter for RRH and RCH loans must be inserted in Form FmHA 460–5 and in the Loan Agreement or Resolution. For transfers on new terms the prepayment restriction period will begin on the date the transfer and assumption is closed.

(7) The following paragraph is to be inserted in the Form FmHA 460–5 or 460–9 whenever the full amount of equity has not been paid in cash:

The assuming party covenants and agrees that irrespective of any other agreement to the contrary, (a) no present or future lien(s) have or will be attached to the partnership property encumbered by FmHA or the income therefrom, (b) the equity payable to the seller will be provided from outside sources or from any authorized return on investment and not from a planned sale of the project, (c) the right of FmHA to approve or disapprove the substitution of partners in a general or limited partnership transferee organization (this phrase may be stricken when the transferee is an individual) has not and will not be superseded by any agreement between the purchaser and seller that implies prior consent by FmHA on partner changes in the case of default, (d) the seller does not and will not have a reversionary interest in the FmHA encumbered property, and (e) the requirements of § 1965.65 of FmHA Instruction 1965–B (7 CFR Part 1965) have been met.

(8) When the transfer docket forms are completed, the approval official must determine that:

(i) The proposed transfer conforms to the applicable procedural requirements and that determinations of hardship status, eligibility, etc., are clearly documented in the casefile.

(ii) Each form is prepared correctly according to the FMI or other appropriate regulations, and

(iii) Items such as names, addresses, and the amount of the indebtedness to be assumed are the same on all forms in which those items appear.

(9) The District Director will record in the Running Case Record or in memo form, the pertinent information concerning the negotiations made between an eligible transferee, FmHA personnel, the applicant's creditors, and other lenders concerning the availability of other credit. The investigation on the availability of other credit for eligible transferees will be documented in the case file as required for the kind of loan being assumed. Any letters from lenders or other evidence which may have been obtained indicating that the applicant is unable to obtain credit elsewhere on rates and terms that would not cause rental rates to be in excess of what low and moderate income tenants could afford will be included in the docket.

(10) A compliance review should be conducted as required by Subpart E of Part 1901 of this chapter, if a current one has not recently been completed.

(11) The District Director will forward the transferee's application docket and the official case file, with any comments and recommendations to the State Office. The following table will be used as a guide in distributing the necessary forms for a transfer docket:

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for loan docket	Copy for borrower
*AD-625	Application for Federal Assistance (Short Form)	3	1	2-O&1C	1-O
*HUD Form 2530/FmHA 1944-37	Previous Participation Certification	2	1	2-O&1C	1-O
	*Information to be Submitted with Preapplication for Loan as required by program regulations specifically related to applicant eligibility.	2	0	1-O	1-O
	*Letter of Application with applicable attachments as required in Subpart G of Part 1822 of this chapter or of Subpart D or E of Part 1944 of this chapter.	2	1	1-O	
	**Evidence of Legal Authority (Copies of citation of specific provisions of State Constitution, statutory authority, etc.).	2	1	1-O	1-O
	**Proof of Organization (certified copy of Charter, Articles of Incorporation, or Certificate of Limited Partnership, etc.).	2	1	1-O	1-O
	**Certified copies of bylaws, partnership agreement, or regulations.	2	1	1-O	1-O

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for loan docket	Copy for borrower
	**List of names, addresses and social security or Tax Identification Numbers of officers, directors, and members, and ownership interest held by each.	2	1	1-O	1-C.
	A current financial statement from the transferee, and others, as required by appropriate program regulations.	2	1	1-O	1-C.
	*Credit Report(s)				
FmHA 465-5	Transfer of Real Estate Security[2]	3	1-O	1-O	1-C.
*FmHA 1930-7	Statement of Budget and Cash Flow (Excluding Depreciation) (Operating Budget—first year) (Operating Budget—typical year).	2	2-O&1C	1-O	1-C.
*Exhibit A-5 to Instruction 1944-E	Housing Allowances for utilities and Other Public Services.	3	2-O&1C	1-O	1-C.
HUD 935.2	Affirmative Fair Housing Marketing Plan	2	2-O&1C	1-O	1-C.
*FmHA 400-1	Equal Opportunity Agreement	2	2-O&1C	1-O	1-C.
*FmHA 400-4	Assurance Agreement	2	2-O&1C	2-O&C	1-C.
FmHA 1940-1	Request for Obligation of Funds[3]	3	2-O&1C	1-O	1-C.
FmHA 451-26	Transaction Record (most recent)	1		1	
*FmHA 451-10	Request for Statement of Account	2		2-O&C	
*FmHA 451-11	Statement of Account	1		1	
*FmHA 451-25	Status of Account	1		1	
*FmHA 1922-7	Appraisal Report for Multi-Unit Housing (see paragraph (f)(4) of this section.	1		1-O	
*FmHA 1922-13	Reviewer's Appraisal Analysis				
*FmHA 1922-8	Residential Appraisal Report	1		1-0	
*FmHA 426-1	Valuation of Buildings	1		1-O	
*FmHA 424-1	Development Plan	2	1-O	2-O&C	1-C.
*FmHA 460-5	Assumption Agreement (New Terms)	4	1-O	1-O	1-C.
*FmHA 460-9	Assumption Agreement (Same Terms—Eligible Transferee).	4	1-O	1-O	1-O.
*FmHA 465-8	Release from Personal Liability[1]	2		1-C	1-C.
*FmHA 440-9	Supplementary Payment Agreement[1]	3	1-O	2-O&C	1-C.
*FmHA 1944-7	Interest Credit and Rental Assistance Agreement (RRH and RCH loans).[1]	3	1-O	1-O	1-C.
*FmHA 1944-27	Rental Assistance Agreement	2	1-O	1-O	1-C.
	*Loan Agreement	2	1-O	1-O	1-C.

O—Original; C—Copy.
*—When applicable.
**—When applicable is an organization.

[1]—The original Form will not be executed until date of closing the transfer.
[2]—When requested, prepare an additional copy for delivery to transferor.
[3]—Applicant must sign and date this form unless a similar certification is obtained on the application form. For ineligible transferees, delete the first sentence referring to other credit in item 42 of the form. The applicant must initial each deletion.

Other transfer docket items may include a mortgagee title policy, title evidence or report of lien search, foreclosure notice agreement, original or certified copy of deed to any property, purchase contract or other instrument of ownership, assignment of HUD Section 8 Housing Assistance Payments contract, and information on prior or junior mortgage(s). When less than the total amount of the indebtedness is assumed, the transferor's financial statement will be included. When an initial or subsequent loan is involved, include any additional forms required by the appropriate loan making instruction. (Subsequent loans will not be made to pay equity.)

(12) If the transfer is within the State Director's loan approval authority, the docket will be forwarded to OGC for review and necessary closing instructions. If the transfer is not within the States Director's loan approval authority, or all planned development is not complete; the complete transfer docket, borrower case file, OGC comments, and complete comments and recommendations of both the District and State Director will be forwarded to the National Office for review and approval authorization.

(13) During the period that a transfer is pending in the District Office, payments received by the Finance Office will continue to be applied to the transferor's account. Those payments include any downpayments made in connection with the transfer for reducing the amount of the debt to be assumed. Any payment on the account not included in the latest transaction record will be deducted from the total amount of principal and interest calculated from the latest information available before the assumption agreement is completed and signed.

(i) *Identification.* For payments received on the date of transfer, Form FmHA 451–2, "Schedule of Remittance," or Form FmHA 1944–9, "Multiple Housing Certification and Payment Transmittal," as appropriate, will be prepared to show "Transfer in process for account owned by (borrower's name and case number) to be transferred to (name of transferee and case number, if known)." If the borrower number portion of the case number has not yet been assigned for a transferee, only the State and county portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the Form FmHA 460–5 or 460–9 showing the date of Form FmHA 451–2 or 1944–9, and the amount paid.

(ii) *Payment.* When a payment is due on the assumption agreement shortly after the transfer is completed, the payment should if possible, be collected at the time of transfer and remitted in the transferee's name.

(g) *Closing transfer cases.* (1) Title clearance and legal services, including OGC closing instructions, will be obtained according to Part 1807 of this chapter (FmHA Instruction 427.1) and this subpart.

(2) The parties to the transfer are responsible for obtaining legal services necessary to accomplish the transfer. A profit or limited profit organization transferee may use any designated attorney or title insurance company to close the transfer according to the applicable closing instructions. The attorney or the title insurance company and their principals or employees must not be members, officers, directors, trustees, stockholders or partners of the transferee or transferor entity. Nonprofit organization transferees may use a designated attorney who is a member of their organization if the cost is reasonable, typical for the area, and is earned.

(3) The transferee will obtain fire and extended coverage insurance, and flood insurance when required, according to the appropriate program requirements for the outstanding loan(s) involved, unless the State Director requires additional insurance as a condition of approval after evaluating the potential for loss due to special hazards associated with the project. When insurance is required, it may be obtained either by transfer of the existing coverage by the transferor or by acquisition of a new policy by the transferee. When the full amount of the FmHA debt is being assumed and an amount has been advanced for insurance premiums or any other purposes, the transfer will not be completed until the Finance Office has charged the advance to the transferor's account.

(4) The proper type of loan agreement or resolution for type of transferee involved must be in effect at the time of the transfer. If changes are needed in the existing loan agreement or resolution cited in the mortgage, the changes should be made by amending the existing loan agreement or resolution after obtaining the advice of OGC.

(5) The restrictive language contained in § 1944.176(c)(1) of Subpart D of Part 1944 of this chapter and § 1944.236(b)(1) of Subpart E of Part 1944 of this chapter must be inserted in the deed of conveyance or other instruments as required by OGC for RRH, RCH, and LH loans.

(6) At a time no later than the transfer closing, the transferee will be provided copies of the security instruments (promissory note, mortgage or deed of trust, rental assistance agreement, loan agreement of resolution, etc.) which were executed by the transferor or previous borrower to originally secure the loan being assumed.

(7) A servicing visit should be scheduled within 90 days of closing to verify the transferee's compliance with program requirements.

(h) *Transfer not completed.* If for any reason a transfer will not be completed after approval, the District Director will immediately notify the State Director.

§§ 1965.66–1965.67 [Reserved]

§1965.68 Consolidation.

(a) *General.* RRH and LH loans and/or loan agreements/resolutions may be consolidated to reduce the administrative burden (recordkeeping, budgeting, etc.), improve the cost effectiveness and efficiencies of project operations, and/or to effectively utilize the physical facilities common to projects. State Directors may approve the consolidation of RRH and LH loans and/or loan agreements to improve the effectiveness of borrower operations with the advice of OGC and when the following conditions are met:

(1) *Consolidation of loans.* (i) The security for the loans must be on the same or contiguous property unless otherwise authorized by the National Office.

(ii) The loans are being transferred under § 1965.65(f)(6) of this subpart on *new terms* to the transferee.

(iii) The security offered must be adequate for the total indebtedness and FmHA's security position must not be lessened as a result of the consolidation.

(iv) The total indebtedness (principal plus accrued interest) of all loans being consolidated does not exceed the State Director's approval authority.

(v) The loans being consolidated are for the same purpose. For example, loans specifically made for senior citizen projects cannot be consolidated with loans for family projects.

(vi) The consolidation will not cause rents to exceed the repayment ability of eligible occupants.

(vii) For RRH loans, the transferee must agree to operate on a nonprofit or a limited profit basis and Interest Credit Plan I S 8 or II must be implemented.

(viii) Loans with rental assistance may only be consolidated when the term of the initial agreements are the same. Under no circumstances can loans with 5 year RA be consolidated with loans having 20 year RA.

(ix) The promissory notes *and* the loan agreements will be consolidated.

(x) After consolidation, the project will be a "project" as defined in § 1944.205(j) of Subpart E of Part 1944 of this chapter.

(2) *Consolidation of loan agreements/resolutions.*

(i) The security for the loans must be on the same or contiguous property unless otherwise authorized by the National Office.

(ii) The State Director may approve the consolidation of loan agreements/resolutions irrespective of the total indebtedness represented by all loan agreements/resolutions being consolidated.

(iii) The loan agreements/resolutions being consolidated are for loans made for the same purpose, to the same borrower entity and have the same plan of operation (non-profit, limited profit or full profit), and when appropriate, are operating under the same type of Interest Credit.

(iv) The requirements of Subpart C of Part 1930 of this chapter concerning reporting, accounting, and project management will be fulfilled as a single project.

(v) The loan agreements/resolutions being consolidated must represent current accounts. Delinquent loan accounts can only be consolidated with prior National Office authorization.

(vi) Rental assistance agreements will not be consolidated with the consolidation of loan agreements/resolutions. If the RA is for other than the same term it must continue to be used only for the units in the project and accordingly reported on the project worksheet.

(b) *Processing.* All consolidations will be processed with the advice of OGC and assistance of the State Director.

(1) Loan consolidation with transfers on new terms will be processed as follows:

(i) Form FmHA 440–16, "Promissory Note," will be prepared for the notes or assumption agreement being consolidated according to the FMI. If the District Office does not have possession of the original note or assumption agreement, the District Director will call the Finance Office inquiry station to request the return of the original form so it is in the District Office before a new Form FmHA 440–16 is processed. A copy of the new Form FmHA 440–16 will be sent to the Finance Office according to the FMI. All promissory notes will be prepared on a monthly payment basis.

(ii) The original and District Office copies of all notes or assumption agreements that are consolidated, will be stamped "Consolidated," by the District Office. The original instruments being consolidated will be filed with the borrower's new consolidated note and a copy will be filed in the borrower's case file. When the consolidated or rescheduled note has been paid in full or otherwise satisfied, it and other instruments will be handled according to the provisions of § 1951.15 of Subpart A of Part 1951 of this chapter.

(iii) A revised loan agreement or resolution will be prepared to reflect current reporting requirements and the authorized initial investment attributable to the owner after the consolidation has occurred.

(iv) Consolidation of notes will only be accomplished with the guidance and assistance of OGC. Under no circumstances will promissory *notes* be consolidated if the security position of FmHA will be adversely affected.

(v) New security instruments which describe the consolidated note will be filed to perfect the FmHA lien position. If the new lien position taken is junior only to the previous lien position securing the loan being consolidated, the

previous security instruments may be released with the guidance and assistance of OGC.

(2) Consolidation of loan agreements or loan resolutions may be used as a security servicing tool to provide more effective management and supervision, as follows:

(i) All of the general requirements of paragraph (a)(2) of this section are met;

(ii) A revised loan agreement or loan resolution encompassing the original loan agreements/resolutions referencing the security instruments must be executed which accurately reflects the total indebtedness, reserve requirements, and return originally described in the individual agreements;

(iii) Neither the terms nor the due dates of the loan(s) involved are altered, and other security instruments remain unchanged, and are *not* released;

(iv) All of the loan agreements or loan resolutions being consolidated may be secured by a deed of trust or mortgage describing all of the loans for the project if required by OGC; and,

(v) The advice and assistance of OGC will be obtained when processing consolidation of loan agreements or loan resolutions.

§ 1965.69 [Reserved]

§ 1965.70 Reamortization.

(a) *General.* State Directors may approve the reamortization of RRH, RCH, and LH loan accounts within their approval authority for the type of loan involved. RHS loans will not be reamortized and will be serviced according to program requirements. If an RHS loan becomes seriously delinquent and efforts to sell the lots are not successful, the account will be liquidated according to Subpart A of Part 1955 of this chapter.

(b) *Conditions for reamortization.* The conditions under which a reamortization will be considered are:

(1) The borrower has made extra payments and/or refunds totaling 10 percent or more of the original loan amounts being reamortized (from sources other than the sale of units within the LH, RRH, or RCH project), and the State Director determines that the borrower and the tenants cannot reasonably be expected to meet their obligations unless the account is reamortized to reduce substantially the FmHA installments and rental rates; or,

(2) The borrower has a substantial delinquency which was caused by circumstances beyond the ultimate control of the borrower that cannot be cured within one year, and the borrower has acted in good faith and has complied with all applicable FmHA procedures and policies governing the particular program under which the loan is made;

(3) And, all of the following conditions exist and are adequately documented in the official case file and on Form FmHA 451–33, "Reamortization Request," as appropriate:

(i) The reamortization will not operate to the financial detriment of the FmHA or impair the security rights of the FmHA.

(ii) The budget or plan of operations for the borrower provides reasonable assurance that the newly scheduled payments will be made according to the terms of the proposed reamortization, and that the charges for ths use of the facility or service are within the payment ability of those it is intended to serve and are comparable to other similar units in the area; and, the rent increase procedures set forth in Exhibit C of Subpart C of Part 1930 of this chapter will be followed if any increase in rental rates is required.

(iii) The Board of Directors and membership will retain, or have definite plans for obtaining, membership and community support; and, will provide competent management for the continued operation of the borrower entity and the facility financed with the loan.

(iv) The State Director believes that reamortization will enable the borrower to operate successfully and carry out the purpose of the loan.

(v) The FmHA lien position remains unchanged.

(vi) The approval official must be satisfied that the security (including the potential income for debt service) will be adequate to protect the FmHA's interests over the term of the reamortization. An appraisal as required by FmHA Instruction 1922–B (available in any FmHA office) must be made and must reflect that the security is adequate for the principal and interest being reamortized when the reamortization will extend the term of the repayment period more than 5 years.

(vii) The borrower has corrected any management deficiencies which may have contributed to the borrower's previous inability to generate sufficient income to bring or keep the account current. Such actions may include revision of the management plan or employment of professional management services.

(c) *Submission to National Office.* When the unpaid indebtedness of the borrower's account(s) to be reamortized exceeds the State Director's approval authority and the State Director determines that the conditions of paragraph (b) of this section can be met, the request for reamortization, official case file and all other pertinent information, along with complete comments and recommendations by both the State and District Directors, will be sent to the National Office. The State Director shall submit all subsequent reamortization requests for the same project to the National Office for prior authorization.

(d) *Processing reamortizations.* To reamortize the account, the following actions will be taken:

(1) Form FmHA 452–2, "Reamortization and/or Deferral Agreement," will be completed according to the FMI. (Only Item A will be used, payments on Multiple Family Housing loans cannot be deferred.)

(2) If the note or assumption agreement being reamortized is not held in the District Office, the District Director will obtain the promissory note and any assumption agreement from the Finance Office before processing the reamortization.

(3) On the back of the original of the note or assumption agreement (new terms), below all signatures and endorsements, the District Director will insert the following: "A reamortization agreement dated ——— 19—, in the principal sum of $———, has been given to modify the payment schedule of the note."

(4) The end of the amortization period will be the final due date of the note being reamortized, unless the term is extended with the advice and guidance of OGC (and it is permissible according to State and local Statutes), and the FmHA lien position is not altered. (Any extension of the final due date will not exceed the lesser of the remaining useful life of the security property or the maximum term authorized by the respective loan program authorizations.)

(5) The interest rate for the account will be unchanged except when the final due date has been extended. If the final due date is extended the interest rate will be either the note rate or the current interest rate, whichever is greater.

(6) The reamortization will be processed with the guidance of OGC.

(7) If the borrower is to receive interest credit benefits following the reamortization of the account, the current interest credit agreement will be cancelled and a new Form FmHA 1944–7 will be prepared and attached to Form FmHA 452–2 for submission to the Finance Office.

(8) The prepayment provisions of Section 502(c) of Title V, Housing Act of 1949, as amended, will be applied in any reamortization which extends the final due date regardless of when the loan

was originally approved. The appropriate restrictive language set forth in § 1944.176(c)(2) of Subpart D of Part 1944 of this chapter for LH loans, or § 1944.236(b)(4) of Subpart E of Part 1944 of this chapter for RRH or RCH loans, will be inserted in the Form FmHA 452–2 and in the revised loan agreement or resolution to accurately reflect the revised terms.

§ 1965.71 [Reserved]

§ 1965.72 Deceased borrower.

Deceased borrower cases will be handled according to the policy outlined in § 1962.46 of Subpart A of Part 1962 of this chapter except that all references to the County Supervisor are now construed to mean the District Director. The advice of OGC will be obtained as necessary.

§ 1965.73 Bankruptcy and insolvency.

Bankruptcy and insolvency cases will be handled according to the policy outlined in § 1962.47 of Subpart A of Part 1962 of this chapter except that all references to the County Supervisor now mean District Director. The handling of bankruptcy cases varies from state to state. Therefore, the State Director may issue State Supplements providing more specific guidance to expedite the handling of those cases. The advice of OGC will be obtained as necessary.

§ 1965.74 Divorce actions.

When individual borrowers with loans are involved in a divorce action, the District Director will review the case after the final divorce decree has been granted to determine if any action is needed for the future servicing of the account. The District Office file will be submitted to the State Director for advice if the District Director is uncertain of the servicing actions needed to protect the FmHA's interest or if continuation of the loan with the remaining borrower is not authorized. No subsequent loan will be made to pay any equity as a result of a divorce action.

§ 1965.75 Abandonment.

When the District Director believes that the borrower has abandoned a project, an immediate check with the appropriate sources (for example: tenants, management agents, assessor's office, etc.) will be made to determine if the borrower has moved and, if so, whether a forwarding address can be determined so that further servicing actions can be taken.

(a) A property is considered abandoned when any or all of the following conditions exist:

(1) The borrower cannot be located after the District Director has made diligent efforts to contact the borrower. This condition also applies to those instances where the general partner(s) of a limited partnership cannot be located and the limited partners are unknown or cannot be located.

(2) The project remains unoccupied for an extended period of time and the borrower makes no effort to maintain the security property, secure eligible occupants, and/or comply with the objectives of the loan within a reasonable period of time as specified by the District Director in a certified letter sent to the borrower requesting compliance.

(b) If the property is not being maintained and the District Director determines that the borrower has abandoned the project, the District Director will attempt to contact any prior lienholders with a request that they take control of the property and make any emergency repairs necessary. If no prior lienholder is involved or the prior lienholder cannot immediately be contacted or refuses to make the emergency repair, the District Director will immediately notify the State Director and request permission to take possession of the property pending liquidation, make emergency repairs to prevent further deterioration of the security, and to enter into a lease with the individual tenants, or a management or caretaker's agreement, on behalf of the borrower.

(c) A caretaker or management agent will normally be obtained when the borrower has abandoned the security property or has failed to maintain its operation and the State Director determines, with the advice of OGC, that the FmHA should take possession of the property to best protect the interest of the Government subject to the following:

(1) *Selection of a caretaker or management agent.* Persons or firms chosen as caretakers or management agents should have experience in operating and managing similar properties or have business background or experience which qualifies them to perform the needed services. They must be located near the property to provide day-to-day supervision or appoint a qualified local person to meet this requirement. Caretakers will normally be selected for unoccupied projects or those not suitable for occupancy. Management agents will only be selected for projects which are occupied or suitable for occupancy. Selection procedures will be in accordance with § 1955.63(a) of Subpart B of Part 1955 of this chapter, and will be appropriately documented. (No other actions specified in Subpart B of Part 1955 may be implemented until such time as liquidation action has been approved in writing by the appropriate FmHA official.)

(2) *Fees.* The amount of the management agent or caretaker fee should be no more than the typical rate for similar services in the area. The amount may be based on a percentage of the income from the property or a flat fee amount. The fees will be considered a recoverable cost and charged to the borrower's account. The fees will be paid by processing Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," on a monthly basis in accordance with FmHA Instruction 2024–P (available in any FmHA office.)

(3) *Rental rates for abandoned projects.* Rental rates will normally remain the same for eligible occupants as when the project was under the control of the borrower. Rental rates may be revised with the approval of the State Director under the following conditions:

(i) The lease agreement between the borrower and tenant permits changing the rates.

(ii) A change of rates is needed to provide income sufficient to pay operational and maintenance expenses, including the caretaker's fee, and to repay the loan on schedule.

(iii) Any increase will not result in rental rates above the payment ability of eligible occupants, unless the State Director has given the authority to rent units to ineligible occupants.

(d) All these actions shall be fully documented in the official case file. Liquidation will immediately be instituted according to Subpart A of Part 1955 of this chapter.

(e) When the project is occupied but rent is not paid or collected, the eligibility of the occupants cannot be determined, and the borrower has failed to comply with the objectives of the loan within a reasonable period of time as specified by the District Director in a certified letter sent to the borrower requesting compliance, the State Director should refer the case to the Regional Attorney for guidance, including the possibility of having a receiver appointed.

§ 1965.76 [Reserved]

§ 1965.77 Consent to sale or other disposition of security property.

(a) *General policies.* The State Director may approve requests for and consent to:

(1) Use of proceeds from the sale of a portion of or an interest in the security,

(2) Exchange of all or a part of the undeveloped security for other real estate, or

(3) Granting or conveyance of rights-of-way subject to the conditions and requirements of this section.

(b) *Processing requests.* These requests will be made on Form FmHA 465–1. The District Director will forward a properly completed and executed Form FmHA 465–1, the proposed deed, easement, or other form of title conveyance, and the case file to the State Director with a memorandum containing additional information, as needed, to justify the approval or disapproval of the proposed transaction.

(c) *Conditions of approval.* The State Director may grant consent provided:

(1) The orderly payment of the FmHA indebtedness will not be impaired. Except that in condemnation case, after the final judgment or award has been granted and is not appealed, the necessary adjustments in project operation will be approved to comply with the court order.

(2) The transaction will not interfere with the successful operation of the multiple housing project or prevent the borrower from carrying out the purpose for which the loan was made. This requirement will not apply in the case of a condemnation action in which a final judgment or award has been made and is not appealed.

(3) The sale of individual units or developed portions of an RRH, RCH or LH project shall require the prior concurrence and authorization of the National Office.

(4) If property to be sold or exchanged is to be used for the same or similar purpose for which the FmHA loan or grant was made, the purchaser shall execute Form FmHA 400–4. The agreement will remain in effect as long as the property continues to be used for the same or similar purpose for which the FmHA loan or grant was made.

(5) The consideration is at least equal to the market value of the security property disposed of or the rights being granted. However, right-of-way easements may be granted or conveyed without consideration or with only the minimal consideration being offered if the approval official determines: the value of the security property will not be reduced; its suitability for the intended purpose will not be impaired; and the easement is granted for the borrower to develop additional lots or units which will be integrated into the project or to a public body for enhancement of streets or utilities benefitting the project.

(i) An FmHA official authorized to appraise multi-unit housing properties shall either make a new appraisal as required by FmHA Instruction 1922–B (available in any FmHA office) if the current appraisal is more than one year old, or supplement the present appraisal report by inserting in or attaching to the "Remarks" section, information as to the market value of the security disposed; or

(ii) The approval official may also accept a value determination for such easements which has been provided by other competent sources at no cost to the Government which is mutually acceptable to the borrower and FmHA;

(iii) However, if the proceeds are to be used for development or enlargement, a new appraisal reflecting the market value of the security property as improved or enlarged will be made in all cases.

(iv) The State Director may request an appraisal for any transaction under this section involving security property whenever necessary.

(6) The remaining property is adequate security for the unpaid balance of the FmHA loan, or the transaction will not adversely affect FmHA's security position or interfere with the successful operation of the security property.

(7) The proceeds from the disposition of the security are used for one or more of the following purposes:

(i) To pay the customary incidental closing costs such as title and recording fees appropriate to the transaction, including additional real estate tax the borrower is required to pay for the year for which arrangements to pay cannot otherwise be made.

(ii) To pay debts owed to any prior lienholders.

(iii) To make extra payments on the FmHA loan.

(iv) To pay costs necessary to determine the reasonableness of an offer or asking price, such as fees for appraisal of minerals, land, or timber where the necessary appraisal cannot be obtained without costs.

(v) To pay real estate brokers' commission if a borrower can reasonably expect to obtain proceeds in an amount at least equal to the commission in excess of what could otherwise be obtained had the sale been made without the assistance of the real estate broker.

(vi) To develop or enlarge the borrower's facility for purposes for which a loan of the same type involved could be made, if the development or enlargement is necessary to improve the borrower's debt-paying ability, place the operation on a more sound basis, or otherwise further the objectives of the FmHA loan. Any proposed development will be planned and performed according to Subpart A of Part 1924 of this chapter and funds to be used for development or enlargement will be handled according to Subpart A of Part 1902 of this chapter.

(vii) To purchase or acquire property to be used for purposes for which a loan of the same type involved is authorized, if the FmHA debt will be as well secured after the transaction as before. FmHA will obtain a lien on the acquired property, and will obtain title evidence according to Part 1807 of this chapter (FmHA Instruction 427.1).

(viii) To pay any additional income tax which the borrower must pay for the year because of the capital gain or royalty tax attributable to the transactions. Funds for back taxes must be estimated and held in a supervised bank account until actual payment of the tax.

(8) FmHA liens are not released until receipt of the appropriate sales proceeds for application on the Government's claim.

(d) *Releasing security.* Security for FmHA loans addressed in this subpart will be released according to applicable program regulations and as follows:

(1) Borrowers will be held strictly accountable to the FmHA for all proceeds derived from the sale of mortgaged property which the FmHA is entitled to receive under its lien.

(2) Consent to disposition of part, or an interest in, security property as authorized in this subpart may be given by approving a completed Form FmHA 465–1 or other forms approved by OGC or prescribed in State Supplements. Upon request for consent, the District Director will forward Form FmHA 465–1, the borrower's case folder, and any other pertinent information to the State Director.

(i) Chattel security may be released from a chattel mortgage by use of Form FmHA 460–1, "Partial Release," or other approved form, and from a security interest under the Uniform Commercial Code by use of Form FmHA 462–12, "Statements of Continuation, Partial Release, Assignment, Etc." Satisfaction or termination of chattel security instruments will be accomplished following the guidance of Subpart A of Part 1962 of this chapter.

(ii) Real estate security may be released by use of Form FmHA 460–1 or other form approved by OGC. Satisfaction or termination of real estate security instruments when the FmHA debt has been paid in full or satisfied by debt settlement action will be

accomplished with the use of Form FmHA 460–4, "Satisfaction."

(iii) Any consent which would result in the FmHA loan account being paid in full will be subject to the prepayment provisions of § 1965.90 of this subpart as applied to RRH, RCH, and LH loans.

§ 1965.78 [Reserved]

§ 1965.79 Subordination.

(a) *General policies.* The State Director is authorized to approve requests for subordination of LH, RRH or RCH loans according to this section, if the total debt against the security after the transaction does not exceed the State Director's loan approval authority for the type of loan involved. Subordination by the State Director will only be considered for individual LH borrowers on farm tracts, multiple housing loans on nonfarm tracts to obtain construction financing, and in those cases where FmHA loan funds are available or the funds can be provided from the private sector at competitive or less costly rates than those offered by FmHA. All other subordination requests, and those exceeding the State Director's approval authority limit must be submitted to the National Office for prior authorization to approve. Each request for subordination will be made on Form FmHA 465–1. The District Director will forward a properly completed and executed copy of the form to the State Director with a memorandum containing any needed information to justify approval or disapproval of the request.

(b) *Conditions of approval.* Subordination of the FmHA lien will only be authorized when it will enable the present borrower to permit another creditor to refinance, extend, reamortize, or increase the amount of a prior lien, or place a lien ahead of the FmHA lien. When the prior lien is being increased by an amount which exceeds normal transaction costs or a new prior lien is being placed against the security, an FmHA official authorized to make appraisals for the type of project involved will supplement the present appraisal report by inserting in the "Remarks" section information as to the market value of the security after the transaction if the appraisal is less than one year old. If the appraisal is more than one year old, a new appraisal as required by FmHA Instruction 1922–B (available in any FmHA office) must be completed. The State Director may also request an appraisal at any time deemed appropriate. In all cases, the following conditions must be met:

(1) The FmHA multiple housing account must be current and the borrower must be capable of providing adequate management.

(2) The transaction must further the objectives for which the FmHA loan or loans were made and FmHA's debt must be adequately secured or will not be adversely affected.

(3) The proposed use of the funds will improve the borrower's ability to repay the FmHA loan(s) or is necessary to place the borrower's operation on a sound basis.

(4) The borrower is unable to refinance the FmHA loan on terms which can reasonably be expected to be met yet still meet the original intent of the program.

(5) The terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them as well as all other debts.

(6) The amount of the indebtedness against the security property, including the amount of the subordination, will not exceed its present market value.

(7) When an increase in the amount of the prior lien or a new prior lien is involved, subordination will be granted only when the funds will be used for the same purposes for which the loan of the same type is authorized; except, all LH loans on a farm tract may be subordinated for essential farm improvements and any other purpose for which an FmHA Farm Ownership loan can be made as described in § 1943.16 of Subpart A of Part 1943 of this chapter. LH loans will not be subordinated to provide operating capital or purchase chattels. If the LH loan is secured only by the LH units and the project site, the LH loan will only be subordinated for purposes for which an LH loan may be made.

(8) Any proposed development will be planned and performed according to subpart A of Part 1924 of this chapter or in a manner directed by the other creditor which reasonably attains the objectives of Subpart A of Part 1924 of this chapter and is concurred with by the State Director.

(9) Funds to be used for development or enlargement of farm operations will be handled as prescribed for loan funds in Subpart A of Part 1902 of this chapter except that, if the creditor will not permit the use of a supervised bank account, arrangements should be made to assure that funds will be spent for planned purposes and should be approved by the District Director before being released.

(10) In case of land purchase, FmHA will obtain the best lien obtainable on the land purchased.

(11) Subordinations need not cover the entire site. If a subordination is requested to permit an interim lender to advance construction funds, only the portion of the site scheduled for construction will be subordinated. If the entire farm tract has been taken as security for a LH loan, subordination of the lien on all property except the minimum adequate site, including necessary ingress and egress, on which the LH units are situated, may be authorized for any purpose consistent with the LH program regulations and paragraph (b)(7) of this subpart. For RHS loans, the prorated portion of the lien for the individual lots may be subordinated to permit construction of dwelling units utilizing conditional commitments as authorized in the RHS program regulations.

(12) All subordination requests will be forwarded to OGC for review. The guidance of OGC should be obtained in the preparation of the documents necessary to effect the subordination.

(13) The subordination is for a specific amount.

(14) The proposed action will not change the nature of the borrower's activities so as to make it ineligible for appropriate loan program assistance.

(15) The subordination must not adversely impact the agency's ability to service the loan according to program regulations, and has been determined to be within the bounds of good judgment considering the intent, funding limitations, and respective program authorities.

(16) An agreement to provide notice of foreclosure must be obtained from any new prior lienholder as required in § 1807.2(f)(5) of Part 1807 of this chapter (FmHA Instruction 427.1, paragraph II F 5). As appropriate, any junior lienholders consent to the transaction and use of proceeds will be obtained prior to approval of the transaction.

§ 1965.80 [Reserved]

§ 1965.81 Severance agreements.

(a) *General policies.* Severance agreements or other instruments of similar effect under which a borrower may acquire through other credit, items such as laundry equipment, air conditioning units, and basic household furnishings that will not become part of real estate security, may be approved by the State Director, provided:

(1) The transaction will not adversely effect the FmHA's security position and any additional obligations incurred will be within the borrower's repayment ability.

(2) The items covered by the severance agreement are needed in the successful operation of the security property.

(3) The financing arrangements are otherwise sound and proper.

(b) *Handling requests.* Requests will be made on Form FmHA 465–1. The District Director will forward to the State Director a properly completed and executed Form FmHA 465–1, any proposed severance agreement, the case file, and specific recommendations regarding the request.

(c) *Consent and approval.* The State Director will indicate approval or disapproval on Form FmHA 465–1. The OGC will be requested to prepare or approve the form of severance agreement and issue any special instructions when necessary.

§ 1965.82 [Reserved]

§ 1965.83 Consent to junior liens.

(a) *General policies.* Borrowers will be strongly discouraged from giving junior liens to other creditors on the FmHA security property. Each request for consent to junior liens will be made on Form FmHA 465-1.

(b) *Conditions of approval.* The State Director may approve a junior lien if the request for the lien is authorized prior to the lien being placed against the property under the following conditions:

(1) The junior lien will enable the borrower to obtain additional credit to make needed improvements or repairs on the security property for purposes for which a loan of the same type involved could be made and funds in the reserve account have been depleted. Except, zero interest loans available from other Federal, State or local agencies, authorities, or commissions; and those from utility companies regulated by such governmental bodies, may be secured by a junior lien when the State Director determines it is in the best interest of the FmHA, borrower and tenants irrespective of the balance in the reserve account.

(2) The junior lien will improve the borrower's total financial condition or debt-paying ability as it relates to the multiple family housing project.

(3) The terms of the junior lien will not jeopardize the borrower's ability to repay the FmHA indebtedness and, in the case of RRH, RCH, and LH loans, will not result in increased rental rates for the project unless authorized according to Exhibit C to Subpart C of Part 1930 of this Chapter.

(4) The junior creditor agrees in writing that foreclosure action under their lien will not be initiated before holding a discussion with the District Director and after giving a reasonable period of notice to FmHA, and any operating plans of the junior lien holder are consistent with FmHA requirements.

(5) Security for the junior lien must not include project income or revenue.

(6) No junior liens will be authorized in connection with a transfer of ownership.

(7) The total debt (including the outstanding FmHA loan balance) is within the State Director's approval authority.

(8) All other requests for consent to junior liens must be submitted to the National Office with complete comments and recommendations from both the District Director and State Director, and all of the borrower's case files. Such requests will be reviewed on a case-by-case basis and appropriate authorization given or withheld depending on the individual merits of the proposal and its compatibility with the respective loan program requirement.

(9) When a junior lien is placed on any property without the prior consent of FmHA, the account will be serviced for liquidation with the guidance of OGC according to the security instruments. However, the State Director may request permission to post approve the junior lien by submitting a formal request to the National Office provided he/she determines that all other conditions set forth in this section are met.

§ 1965.84 [Reserved]

§ 1965.85 Default and liquidation.

(a) *General.* Liquidation will be recommended only after all efforts by FmHA officials have failed to effect a satisfactory solution whereby the borrower will comply with its obligations under the note, mortgage, loan agreements or resolution, and all related security agreements and other instruments. Liquidation, whether by voluntary conveyance or foreclosure, will be handled in strict accordance with the provisions of Subpart A of Part 1955 of this chapter. FmHA Form 465–11, "Accelerated Repayment Agreement," *will not* be used in lieu of foreclosure for RRH, LH, or RCH loans unless specific prior written authorization is received from the National Office.

(b) *Servicing delinquent accounts.* Delinquent multiple housing accounts will be serviced according to the respective program requirements and the following:

(1) The District Director will service delinquent accounts with guidance and assistance as necessary from the State Director. Every delinquent borrower will be serviced according to a routine established for the particular loan type by the State Director. The following sequential steps should be taken for each delinquent account:

(i) Each quarterly delinquency Report Code 616 and 621 or other official FmHA Report will be reviewed for accuracy by the State Director. The following delinquency classification system for multi-housing accounts may be used. The District Director will classify each account on the Report Code 621, as follows:

D1—Delinquent; a servicing plan or action has not been formulated
D2—Audit trail has been completed to verify amount delinquent
D3—Agreement has been made with borrower to become current within a set period
D4—Transfer or substitution of membership interests is in process to correct the delinquency
D5—Reamortization is in process
D6—Account has been accelerated
D7—Borrower is in bankruptcy
D8—Voluntary conveyance is planned
D9—A subsequent loan is planned to correct delinquency
D10—Other (litigation, abandonment before action taken, etc.)
C1—Current (D/O records show the account current)
C2—Audit trail completed that shows D/O or F/O error (double maturities, misapplication, etc.) and action taken has been taken to correct the error
C3—Account paid current since latest Report Code 616 or 621
C4—Other
XI—Property in inventory (from foreclosure, voluntary conveyance or bankruptcy)
X2—Credit Sale finalized
X3—Charge-off of account in process
X4—Transfer or reamortization closed; waiting for F/O to process
X5—Other

(ii) if the report is in error, the District Director will immediately contact the Finance Office and provide any information necessary to correct the report and/or remove the account from the delinquent status. These communications with the Finance Office should be directed to the Multiple-Family Housing unit. Before contacting the Finance Office, the District Director must complete a field audit of the account to be submitted with the inquiry.

(iii) If the report is accurate and a delinquency indeed exists, the District Director will immediately contact the borrower to determine the reason for the delinquency and will attempt to collect either in a lump sum or in additional monthly payments over a short period of time, usually not to exceed one year. This should include foregoing any cash return until the account is current.

(iv) Within 30 days of receipt of the quarterly delinquency report, the

District Director will submit to the State Director a detailed report with specific comments and recommendations for servicing each delinquent account. This report will classify the accounts and indicate which accounts are actually delinquent. Emphasis will be placed on performing delinquency servicing actions to reduce true delinquencies. The State Director will assist the District Director in developing a realistic servicing plan for each delinquent account. The State Director will prepare a statewide delinquency reduction plan annually and update it quarterly based on the delinquency reports and information provided by the District Directors. Appropriate consideration should be given to reamortizing, transferring, conveying or foreclosing accounts recognizing the willingness of the borrower to cooperate and comply with FmHA requirements and to meet the purposes for which the loan was made. Consideration should also be given to:

(A) Adequate budgeting of project income and expenses.

(B) Improving management and outreach.

(C) Implementing interest credit and/or rental assistance if the borrower and project qualify.

(D) Participating in the HUD Section 8 program for existing housing through the local Public Housing Agency (PHA).

(E) Effecting a justified rent increase according to applicable program requirements.

(F) Obtaining an assignment of project income.

(2) District Directors should be firm in dealing with the borrower or the borrower's representative. However, the management agent is not the party ultimately responsible for the loan, and it is therefore imperative that the borrower fully understand the consequences of the default. Courtesy, cooperation and sound judgment must be involved. If the delinquent account cannot be brought current within a reasonable period, steps should be taken according to Subpart A of Part 1955 of this chapter to protect the Government's interest.

(c) *Failure to maintain reserves.* A borrower's failure to maintain adequate reserves should be treated in a manner similar to delinquent accounts. The District Director should carefully monitor the required transfers to the reserve account. Borrowers who fail to make the required transfers or use reserve funds without prior FmHA authorizations should be carefully counseled. Demand should be made upon borrowers misusing the reserve account to promptly correct any deficiency. As appropriate, the District Director may request assistance from the State Director. As necessary to protect the Government's interests, assistance from OGC should be requested through the State Office.

(d) *Nonmonetary defaults.* Attempts to resolve nonmonetary defaults should be handled whenever possible at the District Office level with appropriate guidance and assistance from the State Office. The State Director should counsel with OGC, to determine the appropriate servicing actions in those cases where nonmonetary defaults cannot be resolved at the District Office level. These actions may include liquidation of the account.

(e) *Liquidation.* Liquidation of all multiple-family type loans will be handled according to the applicable portions of Subpart A of Part 1955 of this chapter. In cases of forced liquidation where the acceleration notice has been delivered and the borrower has willfully failed to make the required loan payments, eligible tenants are not occupying the units and/or the borrower is not collecting the approved rents or transmitting the required payments to FmHA, any outstanding interest credit agreement will be cancelled after the appeal period prescribed in Subpart B of Part 1900 of this chapter has expired. However, the rental assistance agreement will not be cancelled until the foreclosure action has been completed and the redemption period has expired according to paragraph XIV B 5 of Exhibit E of Subpart C of Part 1930 of this chapter. In no cases will RA be renewed during the redemption period. In all liquidation cases, the State Director will be responsible for the final decision to liquidate the account based upon an opinion from the OGC and the following information supplied by the District Director:

(1) The specific recommendations of the District Director on the method of carrying out the liquidation,

(2) The case file and any other pertinent information developed in support of the accusations,

(3) A summary of FmHA efforts to work out an acceptable solution short of liquidation,

(4) A current appraisal of the security property as required by FmHA Instruction 1922–B (available in any FmHA office) will be completed by an FmHA official authorized to make that particular type of appraisal and an estimate of the net amount that may be realized from the sale of the assets,

(5) The most recent balance sheet or financial statement from the borrower,

(6) A current statement of account from the Finance Office, and

(7) A problem case report using Form FmHA 465–7, "Report on Real Estate Problem Case," or Exhibit A to Subpart A of Part 1955 of this chapter as appropriate.

§ 1965.86 [Reserved]

§ 1965.87 Miscellaneous security.

(a) *Membership liability agreements.* As a loan approval requirement, some borrowers may have special agreements with members of the organization for the purchase of shares of stock or for the payment of a pro rata share of the loan in the event of default, or they may have instruments which are commonly referred to as individual liability agreements which are usually assigned to and held by the FmHA as additional security for the loan. In other cases the borrower's note may be endorsed by individuals. These security and liability instruments will be serviced in a manner indicated by the agreements to adequately protect the interest of the FmHA. The State Director will develop servicing actions with the assistance of OGC.

(b) *Other security.* Other security such as collateral assignments, assignments of rents, Housing Assistance Payments Contracts, and notices of lienholder interest will be serviced according to acceptable practices in the respective states. The State Director should develop any special servicing actions with the assistance of OGC to protect the interest of FmHA. Evidence of the security will be filed in the loan docket in the District Office. A notation will be made on the Management System Card showing that the security has been retained. When other security is taken, a plan for servicing it should be developed by the approval official and included as an approval condition at the outset.

§ 1965.88 [Reserved]

§ 1965.89 Obtaining additional security for inadequately secured loans.

(a) *General policies.* As a general policy, additional security for multiple housing loans should not be needed or taken to protect the interest of FmHA. However, the State Director may authorize taking additional security in the form of real estate or other security as described in § 1965.87(b) of this Subpart when the additional security is needed to enhance the chances that the FmHA will not suffer a loss and any of the following conditions exist:

(1) The account is behind schedule.

(2) The property has not been properly managed or maintained.

(3) There is serious doubt that the borrower can carry out the objectives of the loan.

(b) *Conditions of approval.* In cases where the District Director determines that the conditions as stated in paragraph (a) of this section exist, the borrower's case file will be forwarded to the State Director with a memorandum providing the following information:

(1) The facts which justify the taking of additional security.

(2) A conservative estimate of the market value of any real estate to be mortgaged; however, it will not be necessary to make a formal appraisal of the property to be mortgaged unless determined necessary by the State Director.

(3) A brief description of any existing liens on the additional security including the repayment terms and the unpaid balance.

(4) The name of the title holder and how title to the property is held. Title evidence need not be required.

(5) A plan for servicing the additional security to be taken.

(6) A description of the other servicing alternatives available to assure that the objectives of the loan will be met and to protect the Government from loss.

(c) *Processing.* The guidance and assistance of OGC will be obtained whenever additional security is taken. The highest quality security available will be taken whenever additional security is considered.

§ 1965.90 Payment in full.

(a) *General.* Payment in full of a loan will be handled according to Part 1866 of this chapter (FmHA Instruction 451.4), subject to any applicable prepayment provisions in the respective program regulations, loan agreements, or mortgages. For RRH, RCH, and LH loan prepayments, the borrower must submit a written request to prepay the loan(s) to the District Director at least 60 days prior to actually making the offer to repay.

(b) *Prepayment of loans approved prior to December 31, 1979.* For any RRH, RCH, or LH loans approved prior to December 21, 1979 and not made subject to the prepayment restrictions by any of the servicing actions set forth in this subpart, and after notice of at least 60 days by the borrower, the District Director will accept prepayment or graduation when he/she can assure that the following conditions are met:

(1) The borrower has been advised that any valid existing leases must be honored until they expire or are terminated under the provisions of the lease.

(2) Upon acceptance of the offer to prepay, the borrower will give written notice of the approval to each tenant. This notice should include a statement advising the tenants of their priority rights for occupancy in other FmHA financed projects if they are displaced or if the prepayment has caused them to experience rent overburden as defined in paragraph XIII A 4 of Exhibit B to Subpart C of Part 1930 of this chapter. The tenants should be advised in the notice that they have six (6) months from the date of prepayment to exercise their priority right by applying for a letter of priority entitlement from the District Director. This information should be posted within the building(s) upon notification of approval for at least 6 months after acceptance of the actual prepayment by FmHA. Exhibit A of this Subpart is provided as guide for the District Director's use.

(3) Upon receiving an application submitted within six (6) months of the prepayment by a tenant displaced as a result of prepayment, the District Director will provide to the affected tenant a letter or priority entitlement to all other FmHA RRH projects. The letter of priority entitlement should include a statement that the affected tenant has thirty (30) days to apply in writing with other FmHA RRH projects. The letter of priority entitlement will enable those tenants to be placed at the top of any waiting list in those projects. A list of FmHA RRH projects in the area will be included as part of the letter of priority entitlement. Eligible tenants in LH projects will also be advised of other available LH projects in the area.

(4) Provide the State Director with a detailed report in the format set forth in paragraph (d) of this section. This report must be provided upon acceptance of the offer to prepay.

(c) *Prepayment of loans approved on or after December 21, 1979.* For any RRH, RCH, or LH loan approved on or after December 21, 1979, or which has subsequently been made subject to the prepayment restrictions of Section 502 of Title V of the Housing Act of 1949 as amended:

(1) After notice of at least 60 days by the borrower, the District Director may accept prepayment or graduation with the prior concurrence of the State Director provided all of the following conditions are met:

(i) The specific prepayment restrictive period has elapsed. Such period is:

(A) Fifteen years from the date on which the loan was made or subsequently made subject to such repayment period as a result of a servicing action as specified in this subpart, whichever is later; and which has not received interest credit, rental assistance, or Section 8 assistance; or

(B) Twenty years from the date on which the loan was made or subsequently made subject to such repayment period as a result of a servicing action as specified in this subpart, whichever is later, in the case of any other loan,

(ii) Or, the State Director determines prior to the end of such period, that there is no longer a need for such housing and related facilities to be so utilized or that Federal or other financial assistance provided to the residents of such housing will no longer be provided. A report must be prepared according to paragraph (d) of this section and provided to the State Director with sufficient detailed information regarding occupancy and need so that the State Director can examine the offer, its likely consequences and determine the impact of the prepayment on the supply of available housing for low-and-moderate income tenants.

(iii) And, the written notice requirement set forth in paragraph (b)(2) of this section is satisfied.

(2) The offer may not be accepted during the restrictive period (15 or 20 years) by the District Director when the State Director determines:

(i) That due to a change in the use of the housing and related facilities, or to an increase in rental or other charges likely to occur as a result of prepayment, the low-and-moderate income and elderly or handicapped tenants occupying the assisted housing at the time of the offer or request cannot reasonably be expected to remain in occupancy for such period. However, in spite of this determination, the offer or request to prepay may be processed *only if* affordable, decent, safe, sanitary and nonassisted alternative housing, or vacant assisted units for which there is no waiting list, is available to the tenants who are likely to be displaced as a result of the change or increase, and

(ii) In the case of housing or related facilities containing more than 10 dwelling units, that the changes likely to occur as a result of the prepayment will have a substantial adverse effect on the supply of affordable, decent, safe, and sanitary housing available to low- and moderate-income and elderly or handicapped persons in the area in which the housing and related facilities are located.

(3) If the State Director determines *not* to accept the offer to prepay, the borrower must be notified of the reasons why the request is being denied. The State Director or designee should be

available to meet with the borrower to discuss the alternative to prepayment, such as, transferring the project to an eligible transferee according to § 1965.65 of this subpart, providing new management for the property or changing entity membership according to § 1965.63 of this subpart. When prepayment is not authorized:

(i) The District Office may not accept the prepayment payment unless specifically authorized by the State Director and National Office concurrence has been granted.

(ii) The loan will be serviced according to § 1965.85 of this subpart in the event that the borrower is uncooperative and fails to comply with FmHA requirements.

(4) For transfers outside the program, if the State Director makes an affirmative determination under paragraph (c)(1) of this section then prepayment may be accepted only if the following clause is included in the deed or other document of conveyance.

The purchaser agrees that the housing located on this property will be used only as authorized under section 514 or 515 Title V of the Housing Act of 1949, as amended, and FmHA regulations then extant until _____ (insert date, 15 years for unsubsidized or 20 years for subsidized loans from the date the last loan on the project was closed or the project was made subject to the prepayment restrictions as a result of servicing actions authorized under this subpart). A tenant may seek enforcement of this provision as well as the United States. No person occupying the housing shall be required to vacate during such period because of early repayment.

(5) If the borrower wishes to prepay and operate the property within the objectives of the program or transfer the loan to a transferee that will keep the housing within the program, a document containing the restrictive language that appears below must be executed. (In the case of transferees, the restrictive language will be inserted in the Form FmHA 460–5 or 9). In the case of borrowers prepaying but not transferring the property, the following restrictive language will be inserted in the deed of release and filed for record.

The borrower and any successors in interest agree to use the housing for the purpose of housing people eligible for occupancy as provided in Section 514 or 515 of Title V of the Housing Act of 1949, as amended, and FmHA regulations then extant during the _____ (15 years for unsubsidized and 20 years for subsidized loans) year period beginning _____ (the date the last loan on the project was closed or the project was made subject to the prepayment restrictions as a result of servicing actions authorized under this subpart). The borrower also agrees that no person occupying the housing shall be required to vacate prior to the close of such _____ (15 years for unsubsidized and 20 years for subsidized loans) year period because of early prepayment. The borrower will be released from these obligations only when the Government determines that there is no longer a need for the housing or that Federal or other financial assistance provided to the residents of such housing will no longer be provided.

(6) The District Director will provide the State Director with an updated report in the format set forth in paragraph (d) of this section upon accepting the offer to prepay.

(d) *Prepayment report.* Immediately upon receiving information regarding the prepayment of any RRH, RCH, or LH loans the District Director will send a report on each prepayment case to the State Director for indefinite retention containing the following information:

(1) Date of initial loan approval.

(2) Type of borrower entity and plan of operation.

(3) The number of units in the project.

(4) The number of eligible tenants presently occupying the units.

(5) The estimated replacement cost per unit.

(6) The estimate of the number of households that will be displaced as a result of prepayment.

(7) The estimate relocation cost of the housholds being displaced.

(8) An indication of the displaced households' ability to pay relocation costs.

(9) The income range of the tenants presently in the project.

(10) The number of elderly tenants in the project.

(11) The present and projected rents.

(12) The number and type of Section 8 or RA units, and whether Section 8 will continue after prepayment.

(13) Any cause of displacement other than rent.

(14) The availability of other vacant units in the area.

(e) *Final payment and release.* Final payments and the release of security will be handled according to Subpart B of Part 1951 of this chapter, Subpart A of Part 1962 of this chapter, and Part 1866 of this chapter (FmHA Instruction 451.4), and appropriate program requirements and regulations. In all cases, references to County Supervisor shall be construed to mean District Director when applied to multiple family type borrowers. The District Director will notify the bonding company in writing that the government no longer has an interest in the fidelity bond and will release the FmHA's interest in insurance policies according to the applicable provisions of Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1). FmHA's interest in any other security will also be released in the manner prescribed by the State Director with the assistance of OGC as necessary.

§ 1965.91 Servicing loans in formerly eligible areas.

All servicing actions contained in this subpart are authorized without regard to whether the area is no longer defined as an eligible area.

§ 1965.92 Information to be provided to IRS on RRH transfers, voluntary conveyances, foreclosures, and 100% membership changes.

State Offices are to privide information to the National Office for submission to IRS at their request on RRH transfers, voluntary conveyances and foreclosures that were finalized (the deed recorded) subsequent to January 22, 1985. In addition, information is to be provided on changes of membership interests that are covered under § 1965.63 of this subpart which result in a 100 percent change in the entity membership, such as, beneficial interests, partnership interests and stock transfers. Exhibit B to this subpart, (available in any FmHA office) must be completed for each project affected with particular attention given to supplying the Employer Identification and/or the Social Security numbers of the parties involved. Field Offices should not contact the borrowers or transferees for information that is not otherwise available from the casefiles, except in the case of missing Taxpayer Identification numbers. Exhibit B available in any FmHA office will be prepared when the servicing action is completed and sent to the National Office.

§ 1965.93 [Reserved]

§ 1965.94 State Supplements.

State supplements will be prepared with the advice of OGC as necessary to comply with State laws and to provide guidance to the District Director in the servicing actions required. All State Supplements, unless specifically authorized by particular subsections of this subpart must be submitted for prior National Office approval before implementation. Requests for approval must include complete justification, citations of State law, and appropriate legal opinions from the respective Regional Attorney.

§ 1965.95 [Reserved]

§ 1965.96 Nondiscrimination.

Each instrument of conveyance for any transfer or foreclosure sale of real

property subject to Title VI of the Civil Rights Act of 1964 will contain the following convenant:

The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the Rehibilitation Act of 1973 and the regulations as issued pursuant thereto for so long as the property continues to be used for the same or similar purposes for which the Federal financial assistance was extended or for so long as the purchaser owns it, whichever is later.

§ 1965.97 Exception authority.

The Administrator of the Farmers Home Administration may, in individual cases, make an exception to any requirement of this Subpart not inconsistent with the authorizing statute if the Administrator finds that application of the requirement would adversely affect the interest of the Government or the immediate health or safety of the tenants or the community. The Administrator will exercise the authority only at the request of the State Director. The State Director will submit the request supported by data which demonstrates the adverse impact, identifies the particular requirement involved, shows proper alternative courses of action, and identifies how the adverse impact will be eliminated.

§§ 1965.98—1965.99 [Reserved]

§ 1965.100 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control 0575–0100.

Exhibit A—Notice of Prepayment

TO: Tenants of _____ (Project Name)

On _____ (Date), Farmers Home Administration (FmHA) accepted payment in full of the loan which financed your rental unit. As a condition of acceptance, you are hereby advised that the new owners will be bound by the terms of your existing lease until it expires or is terminated in accordance with the provisions of such letter.

You are further advised that you may have priority rights for occupancy in other FmHA financed projects if you are displaced without cause because any subsequent increase in rents causes you to experience rent overburden. You have six (6) months from the above date to exercise this priority right. You may do this by applying to my office for a letter of priority.

If you have any questions you may contact my office at:

_____

_____

_____

_____

(Signature)

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: November 13, 1984.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 84–33205 Filed 12–20–84; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 72

[Docket No. 83–104]

Texas (Splenetic) Fever in Cattle; Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim Rule.

SUMMARY: This document amends the "Texas (Splenetic) Fever in Cattle" regulations by deleting from quarantined area status all of the previously quarantined portions of Dimmit and Zavala Counties in Texas, and by adding to and deleting from the quarantined area (the quarantined area is a strip of land along the Rio Grande River) portions of Cameron, Hidalgo, Kinney, Maverick, Starr, Val Verde, Webb, and Zapata Counties in Texas. The regulations, among other things, restrict the interstate movement from the quarantined area of certain cattle because of ticks which are vectors of splenetic or tick fever. Such ticks have been found to occur in the area added to the quarantined area. It is necessary to add such areas to the quarantined area in order to impose restrictions on the interstate movement of certain cattle from such areas and thereby help prevent the spread of such ticks. Such ticks no longer occur in the areas deleted from quarantined area status. It is necessary to delete such areas from quarantined area status in order to delete unnecessary restrictions on the interstate movement of certain cattle.

DATES: Effective Date: December 21, 1984. Written comments must be received on or before February 19, 1985.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. C.A. Gipson, Special Diseases Staff, VS, APHIS, USDA, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8321.

SUPPLEMENTARY INFORMATION: The "Texas (Splenetic) Fever in Cattle" regulations (contained in 9 CFR Part 72 and referred to below as the regulations), among other things, restrict the interstate movement from a quarantined area of cattle because of ticks which are vectors of splenetic or tick fever (referred to below as ticks). Splenetic or tick fever is a contagious, infectious, and communicable disease of cattle. The disease causes cattle to become weak and dehydrated, and can cause death.

The areas quarantined because of ticks include portions of Texas and include all of Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

The area in Texas quarantined because of ticks constitutes a strip of land along the Rio Grande River from Val Verde County to Cameron County. Prior to the effective date of this document, the area quarantined in Texas included portions of the following counties: Cameron, Dimmit, Hidalgo, Kinney, Maverick, Starr, Val Verde, Webb, Zapata, and Zavala. This document deletes from quarantined area status all of the portions of Demmit and Zavala Counties that were previously quarantined. Also, small areas continguous to the remaining quarantined area are added to the quarantined area. Based on surveys conducted by inspectors of the U.S. Department of Agriculture and the Texas Animal Health Commission, ticks have been found to occur in the areas added to the quarantined area. Therefore, it is necessary to add these areas to the quarantined area in order to help prevent the spread of the ticks.

Further, based on such surveys it has been determined that such ticks no longer exist in the areas deleted from quarantined area status. Therefore, there is no longer a basis for continuing to include these areas in the quarantined area.

This document also makes changes in the description of the quarantined area to reflect changes in ownership of premises.

The description of the revised quarantined area in Texas is set forth in the rule portion of this document.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have a significant annual effect on the

economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that the number of cattle moved interstate annually from Texas which will be affected by this amendment will be significantly less than 1% of the number of cattle moved interstate annually within the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Emergency Action

Dr. John K. Atwell, Deputy Administrator, Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without opportunity for public comment. With respect to the areas added to the quarantined area, it is necessary that the rule be made effective immediately in order to prevent the interstate spread of ticks. With respect to the areas deleted from quarantined area status, it is necessary that the rule be made effective immediately in order to relieve unnecessary restrictions that would otherwise be imposed.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and a document discussing comments received and any changes required will be published in the **Federal Register**.

List of Subjects in 9 CFR Part 72 Federal Register Thesaurus Terms

Animal diseases, Animal pests, Cattle, Quarantine, Transportation, Texas fever, Splenetic fever, Ticks.

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

Accordingly, 9 CFR Part 72 is amended by revising § 72.5 to read as follows:

§ 72.5 Area quarantined in Texas.

The following portions of the specified counties in Texas are quarantined:

(a) That portion of *Val Verde County* lying generally southwest of a line beginning at the point on the south bank of the Devils River where the Amistad Dam Compound east fence intersects the water line and following this east fence of the compound in a southerly direction to the southeast corner of the Amistad Dam Compound, approximately 1¾ miles; thence, following the meanderings of this compound fence in a southwesterly direction to where it intersects the east right-of-way fence of the old railroad, approximately 3¼ miles; thence, following the old railroad right-of-way fence in a southerly direction to its intersection with the right-of-way fence of the present Southern Pacific Railroad, approximately 3⅛ miles; thence, following Southern Pacific Railroad in a southeasterly direction to a point directly north across a gravel road from the northeast corner of the Slover Field, approximately 5¾ miles; thence, south across this gravel road to the northeast corner of the Slover Field and following the meanderings of the east fence of the Slover Field in a southwesterly direction to where it intersects the northeast corner of the Woodson Field #1, approximately ⅛ mile; thence, following the meanderings of Woodson Field #1 east fence in a southwesterly direction to the southwest corner of the same, approximately ¼ mile to the north fence of the Payne Pasture; thence, following the north fence of the Payne Pasture in a westerly direction to the southwest corner of the same, approximately 100 yards; thence, following the west fence of the Payne Pasture in a southeasterly direction across Cienegas Creek to its junction with Kite Road, approximately 100 yards; thence, following Kite Road in a southerly direction to where it intersects Garza Lane, approximately 3/10 mile; thence following Garza Lane in a westerly direction to a corner, approximately ⅛ mile; thence, following Garza Lane in a southeasterly direction to where it intersects U.S. Highway 277 Spur, approximately 1⅛ miles; thence, following U.S. Highway 277 Spur in a southeasterly direction to its intersection with Hudson Drive, approximately ½ mile; thence, following Hudson Drive in a southeasterly direction to where it joins Rio Grande Drive, formerly called Silo Field Road, approximately 9/10 mile; thence, following the west fence of Rio Grande Drive in a southeasterly direction to where it joins the east fence of the Rudy Mota Vega,[1] approximately 1/10 mile; thence, following the east fence of the Rudy Mota Vega in a southeasterly direction to where it joins the San Felipe Creek, approximately 3/10 mile; thence, following San Felipe Creek in a southwesterly direction to where it joins the new W.L. Moody double fence, approximately 2/10 mile; thence, following the new W.L. Moody double fence in a southwesterly direction to a corner, approximately 1 1/10 miles; thence, following the meanderings of the same double fence paralleling the Rio Grande River in a southeasterly direction to where it intersects the Val Verde-Kinney County Line at Sycamore Creek, approximately 9½ miles.

(b) That portion of *Kinney County* lying generally southwest of a line beginning at the point where the W.L. Moody Ranch double fence intersects the Val Verde-Kinney County Line at Sycamore Creek and following this double fence in a southerly direction to where it joins the channel to the Maverick County Water District Headgates, approximately 4⅝ miles; thence, following said channel in a southerly direction past the Maverick County Water District Headgates to where it intersects the W.L. Moody double fence, approximately 7/10 mile; thence, following the meanderings of the W.L. Moody double fence in a southeasterly direction to where it intersects Maverick County Water District main canal, approximately 3 miles; thence, following the Maverick County Water District main canal in a southeasterly direction to where it intersects the Kinney-Maverick County Line, approximately 6⅝ miles.

(c) That portion of *Maverick County* lying generally southwest of a line beginning at the point where the Maverick County Water District main canal intersects the Kinney-Maverick County Line and following this main canal in a southeasterly direction to where it intersects the west right-of-way fence of U.S. Highway 277, approximately 5⅝ miles; thence, following the west right-of-way fence of U.S. Highway 277 in a southerly direction to where it intersects Maverick County Water District Lateral #2, approximately ½ mile; thence, following the Maverick County Water District Lateral #2 in a southerly direction to where it intersects the north fence of the

[1] Vega is a flat lowland area.

Calley property, approximately 5¼ miles; thence, east along the north fence of the Calley property to a corner, approximately 200 yards; thence, following the east fence of the Calley property in a southerly direction to the northeast corner of the Hal Bowles Ranch, approximately ⅜ mile; thence, following the east fence of the Hal Bowles Ranch in a southeasterly direction to where it intersects the north fence of the Lehman Brothers Ranch, approximately ¾ mile; thence, following the Lehman north fence in a southeasterly direction to a drainage canal, approximately ⅛ mile; thence, following the drainage canal in a southerly direction to the north fence of the Las Vegas Ranch, approximately ⅞ mile; thence, following the meanderings of the Las Vegas Ranch fence in a southeasterly direction to the northeast corner of the same, approximately 1 mile; thence, following the meanderings of the east fence of the Las Vegas Ranch in a southerly direction to where it intersects the Alex Ritchie north fence, approximately 3½ miles; thence, along the north fence of the Alex Ritchie Farm in an easterly direction to where it intersects the Maverick County Water District main canal, approximately ⅜ mile; thence, following the meanderings of the Maverick County Water District main canal in a southerly direction to where it intersects the C.P.&L. Power Plant Road, approximately 3½ miles; thence, following the C.P.&L. Power Plant Road in an easterly direction to where it intersects the west fence of the Beer Joint Trap,[2] approximately 1⅜ miles; thence, following the west fence of the Beer Joint Trap in a southerly direction to the southwest corner of the same, approximately ⅝ mile; thence, following the meanderings of the south fence of the Beer Joint Trap in an easterly direction to where it intersects the west right-of-way fence of U.S. Highway 277, approximately ¾ mile; thence, following U.S. Highway 277 in a southerly direction into the City of Eagle Pass, Texas, and following the meanderings of U.S. Highway 277 in a southerly direction to its intersection with Church Street, approximately 8½ miles; thence, following Church Street in a westerly direction to its intersection with Commercial Street, approximately 9/10 mile; thence, following Commercial Street in a southerly direction to its intersection with Garrison Street, approximately 7/10 mile; thence, following Garrison Street in an easterly direction to its intersection with Adams Street, approximately 9/10 mile; thence, following meanderings of Adams Street in a southerly direction to where it becomes Industrial Park Road, approximately 1 mile; thence, following the meanderings of Industrial Park Road to where it intersects Brown Street, approximately 1½ miles; thence, following Brown Street in an easterly direction to the intersection of Farm Road 1021; approximately ½ mile; thence, following Farm Road 1021 in a southeasterly direction to the intersection of Farm Road 1021 and Farm Road 2366; thence, following Farm Road 2366 in a southwesterly direction to an intersection of Farm Road 2366 and a paved county road, approximately 1½ miles; thence, continuing along a paved county road in a southwesterly direction to a cattle guard at the eastmost corner of the Loma Linda Ranch double fence, approximately 1¼ miles; thence, following the same double fence in a westerly direction to a corner, approximately ⅝ mile; thence, following the same double fence in a northerly direction to a corner, approximately ¾ mile; thence, following the same double fence in a westerly direction to the northwest corner of the Loma Linda Ranch, approximately ⅞ mile; thence, following the meanderings of the same double fence in a southerly direction to the north fence of the W.D. Ranch, approximately 1½ miles; thence, following the same double fence along the north property line of the W.D. Ranch in a westerly direction to the northwest corner of the same, approximately ⅜ mile; thence, following the same double fence along the meanderings of the Rio Grande River in a southeasterly direction to the northwest corner of the El Indio Land Company Ranch, approximately 1 mile; thence, following the meanderings of the same double fence parallel to the Rio Grande River in a southeasterly direction to where it intersects the west fence of the Kiesling Rio Lado Farm, approximately 4 miles; thence, following the same double fence in a southeasterly direction to where it joins the west fence of the Stone Ranch Upper Pasture, approximately 1¼ miles; thence, following the meanderings of the Stone Ranch Upper Pasture west double fence in a northerly direction to a corner, approximately ½ mile; thence, following the same double fence along the north property line of the Stone Ranch Upper Pasture in a northeasterly direction to where it intersects the Maverick County quarantine fence at El Indio vat, approximately ¾ mile; thence, following the meanderings of the Maverick County quarantine line fence in a southerly direction to the northwest corner of the Kiesling Lake Pasture, approximately 10¾ miles; thence, along the Kiesling Lake Pasture double fence in a southeasterly direction to where it intersects the north fence of the Dick Swartz Ranch Mansfield Pasture, approximately 1¾ miles; thence, following the meanderings of a double fence in a southeasterly direction paralleling the Rio Grand River to the south fence of the Swartz Ranch Mansfield Pasture, approximately 5 miles; thence, following the meanderings of the south fence of the Swartz Ranch Mansfield Pasture in a northeasterly direction to the Eagle Pass-Laredo River Road which will be called the Mines Road from this point south, approximately 4 miles; thence, following the Mines Road in a southeasterly direction to the Maverick-Webb County Line, approximately 14 miles;

(d) That portion of *Webb County* lying generally southwest of a line beginning at the point where the Maverick-Webb County Line intersects the Mines Road and following this road in a southeasterly direction to where it intersects the north double fence of the Las Minas Ranch, approximately 43½ miles; thence, following the north double fence of the Las Minas Ranch in a westerly direction to the northwest corner of the same, approximately 1¼ miles; thence, following the west double fence of the Las Minas Ranch in a southerly direction to the southwest corner of the same, approximately 3¾ miles; thence, following the south double fence of the Las Minas Ranch in an easterly direction to where it intersects the Mines Road, approximately 2⅛ miles; thence, following the Mines Road in a southeasterly direction to its intersection with Del Mar Boulevard and Interstate Highway 35, approximately 16 3/10 miles; thence, following Interstate Highway 35 in a southerly direction to its intersection with Matamoros Street (U.S. Highway 83), approximately 4 1/10 miles; thence, following Matamoros Street (U.S. Highway 83) in an easterly direction approximately 1 mile to where Matamoros Street (U.S. Highway 83) becomes Guadalupe Street; thence, following Guadalupe Street in an easterly direction approximately 1½ miles to where U.S. Highway 83 turns in a southerly direction; thence, following U.S. Highway 83 in a southerly direction, approximately 12 3/10 miles to where it intersects the north double fence of the H.B. Zachary Ranch; thence, following the meanderings of this double fence in a westerly direction to the northwest corner of the same double fence, approximately 5 5/10 miles; thence,

[2] A trap is an area in which animals may be trapped.

following the meanderings of the H.B. Zachary west double fence in a southeasterly direction to a corner, approximately 4½ miles; thence, following the same fence in an easterly direction to a corner, approximately ⅜ mile; thence, following the same fence in a southerly direction to a corner, approximately ⅜ mile; thence, following the H.B. Zachary Ranch south double fence in an easterly direction to where it intersects U.S. Highway 83 at the Webb-Zapata County Line, approximately 4 miles.

(e) That portion of *Zapata County* lying generally southwest of a line beginning at the point where U.S. Highway 83 intersects the Webb-Zapata County Line and following U.S. Highway 83 in a southerly direction to where it intersects the Martinez Windmill Trap north fence, approximately 3/10 mile; thence, east along the north fence of the Martinez Windmill Trap to the northeast corner of same, approximately 3/10 mile; thence, following the east fence of the Martinez Windmill Trap in a southerly direction to the southeast corner of same, approximately 1/10 mile; thence, along the south fence of the Martinez Windmill Trap in a westerly direction to where it intersects U.S. Highway 83, approximately 3/10 mile; thence, following U.S. Highway 83 in a southerly direction to where it intersects the Juan Vidaurri heirs' pasture north fence, approximately 2 5/10 miles; thence, following the Juan Vidaurri heirs' pasture north fence in an easterly direction to the northeast corner of same, approximately 1 5/10 miles; thence, following the meanderings of the Juan Vidaurri heirs' pasture east fence in a southerly direction to where it intersects the north fence of the Dye Farm, approximately 2 5/10 miles; thence, following the north fence of the Dye Farm in a westerly direction to where it intersects U.S. Highway 83, approximately ⅞ mile; thence, following U.S. Highway 83 in a southerly direction to where it intersects the Zapata City Limits fence, approximately 25 miles; thence, along the Zapata City Limits fence in a westerly direction to a corner, approximately 1/16 mile; thence, following the meanderings of the Zapata City Limits fence in a southeasterly direction to the southeast corner of the Eddie Bravo Trap, approximately 2 5/10 miles; thence, following the south fence of the Eddie Bravo Trap in a westerly direction to its intersection with the water line of Falcon Lake, approximately 3/10 mile; thence, following the meanderings of the water line of Falcon Lake in a southeasterly direction to its intersection with U.S. Highway 83, approximately 1 2/10 miles; thence, following U.S. Highway 83 in a southerly direction to where it intersects the Zapata-Starr County Line, approximately 23⅛ miles.

(f) That portion of *Starr County* lying generally south of a line beginning at the point where U.S. Highway 83 intersects the Zapata-Starr County Line and following a fence along the Zapata-Starr County Line in a southwesterly direction to where it intersects the east fence of the Falcon State Park, approximately 3¾ miles; thence, following the east fence of the Falcon State Park in a southeasterly direction to a corner, approximately 1 mile; thence, following the same fence in an easterly direction to a corner, approximately 100 yards; thence following the same fence in a southerly direction to a corner, approximately 100 yards; thence, following the same fence in an easterly direction to a cattle guard at the entrance of Falcon State Park at Old U.S. Highway 83, approximately 4/10 mile; thence, across Park Road 46 at the entrance to Falcon State Park on Old U.S. Highway 83 and following the park enclosure fence in a southerly direction to a corner, approximately 100 yards; thence, following Falcon State Park fence in a westerly direction to a corner, approximately 4/10 mile; thence, following the same fence in a southerly direction to where it intersects the north fence of the IBWC Compound, approximately 5/10 mile; thence, following the IBWC Compound north fence in an easterly direction to its intersection with Old U.S. Highway 83, approximately 4/10 mile; thence, following Old U.S. Highway 83, also known as F.M. Road 2098, south and southeast to its junction with the present U.S. Highway 83, approximately 4¼ miles; thence, following U.S. Highway 83 in a southeasterly direction to the south fence of the M. Ramirez pasture at the north city limits of Roma, Texas, approximately 9½ miles; thence, following the south fence of the M. Ramirez pasture in a northeasterly direction to where it intersects the west fence of the G. Madrigal Ranch, approximately 4/10 mile; thence, following the meanderings of the west fence of the G. Madrigal Ranch in a southeasterly direction, around the east side of the R. Pena addition to the city of Roma, Texas, to a dirt road, approximately 9/10 mile; thence, following the same dirt road in a southerly direction to where it intersects U.S. Highway 83 at the Roma Graveyard, approximately 5/10 mile; thence, following U.S. Highway 83 in an easterly direction to the southwest corner of the Lupe Villarreal pasture on the north side of U.S. Highway 83, approximately 11¼ miles; thence, following the west fence of the Lupe Villarreal pasture in a northerly direction to the northwest corner of the same, approximately ½ mile; thence, following the north fence of the Lupe Villarreal pasture in an easterly direction to the northwest corner of the Roberto Corona pasture, approximately 100 yards; thence, following the north fence of the Roberto Corona pasture in an easterly direction to a corner, approximately 4/10 mile; thence, following the same fence in a northerly direction to where it intersects the West City Limits Road, approximately 4/10 mile; thence, following the West City Limits Road in a northerly direction to the north fence of the Rene Smith property, approximately 3/10 mile; thence, following the east and north fences of the Rene Smith property to where it joins the east fence of the Laguna Ranch, approximately ½ mile; thence, following the east fence of the Laguna Ranch in a northerly direction to a cattle guard on the El Sauz Road, approximately 2 miles; thence, crossing to the El Sauz Road to the east fence of the same and following the El Sauz Road in a southeasterly direction to the northwest corner of the M. Fuentes pasture, approximately 1 6/10 miles; thence, following the north fence of the M Fuentes pasture in an easterly direction to the west fence of the Rene Soliz pasture, approximately 2/10 mile; thence, following the west fence of the Rene Soliz pasture in a southerly direction to the southwest corner of the same, approximately 2/10 mile; thence, following the south fence of the Rene Soliz pasture in an easterly direction to a corner, approximately 1/10 mile; thence, following the same fence in a northerly direction to a corner, approximately 2/10 mile; thence, following the same fence in an easterly direction to a corner, approximately 2/10 mile; thence, following the same fence in a northerly direction to where it joins the North City Limits Road, approximately 2/10 mile; thence, following the meanderings of the North City Limits Road in an easterly direction to where it joins FM Road 755, approximately 7/10 mile; thence, following FM Road 755 in a northeasterly direction to the Los Olmos Creek Bridge, approximately 2/10 mile; thence, crossing under the Los Olmos Creek Bridge in a southerly direction to the east city limits of Rio Grande City, Texas, approximately 80 yards; thence, following the meanderings of the fence along the east city limits of Rio Grande

City, Texas, in a southerly direction to the north fence of the Rio Grande City air strip, approximately ¾ mile; thence, following the north fence of the Rio Grande City air strip in a southeasterly direction to the northeast corner of the same, approximately 9/10 mile; thence, following the east fence of the Rio Grande City air strip in a southerly direction to the M.P. Railroad right-of-way, approximately 5/16 mile; thence, crossing the M.P. Railroad right-of-way in a southerly direction to U.S. Highway 83, approximately 100 yards; thence, following U.S. Highway 83 in a southeasterly direction to the Starr-Hidalgo County Line, approximately 16 miles.

(g) That portion of *Hidalgo County* lying generally south of a line beginning at the point where U.S. Highway 83 intersects the Starr-Hidalgo County Line and following the south side of U.S. Highway 83 right-of-way in an easterly direction to the east fence of the Sam Fordyce Ranch, approximately 4 miles; thence, following the east fence of the Sam Fordyce Ranch in a southerly direction to the north fence of the railroad right-of-way, approximately ½ mile; thence, following the north fence of the railroad right-of-way in an easterly direction to where it intersects the Havanna Road, approximately 9/10 mile; thence, following the Havanna Road in a southerly direction to where it intersects the Old Military Road, approximately 75 yards; thence, following the Old Military Road in an easterly direction to where it intersects the IBWC Levee, approximately 4 miles; thence, following the IBWC Levee in a southeasterly direction to where it intersects the Old Military Road, approximately 8½ miles; thence, following the Old Military Road in an easterly direction to where it joins FM Road No. 1016 at Madero, approximately 1¾ miles; thence, following FM Road No. 1016 in a southeasterly direction to where it joins the Old Military Road, approximately 1 mile; thence, following the Old Military Road in a southeasterly direction to the North Granjeno Road, approximately 1¾ miles; thence, following the North Granjeno Road in an easterly direction to where it intersects Shary Road, approximately ⅝ mile; thence, south on Shary Road to where it intersects the IBWC Levee, approximately 50 yards; thence, following the meanderings of the IBWC Levee in an easterly direction to where it intersects FM Road 1926, approximately 3 miles; thence, following FM Road 1926 in a southerly direction to where it intersects U.S. Highway 281 Spur, approximately 27 miles; thence, following U.S. Highway 281 Spur in an easterly direction to where it becomes U.S. Highway 281, approximately 4 3/10 miles; thence, following U.S. Highway 281 in an easterly direction to where it intersects the Hidalgo-Cameron County Line, approximately 22 miles.

(h) That portion of *Cameron County* lying generally south of a line beginning at the point where the Hidalgo-Cameron County Line intersects U.S. Highway 281 following U.S. Highway 281 in an easterly direction to where it intersects the Willacy County Canal, approximately 200 yards; thence, following the Willacy County Canal in a northerly direction to the C.P.&L. Company double pole power line, approximately ½ mile; thence, following the C.P.&L. Company double pole power line in an easterly direction to where it intersects FM Road No. 1479, approximately 7⅛ miles; thence, south on FM Road No. 1479 to where it intersects a county road, approximately 50 yards; thence, following said county road in a southeasterly direction to where it intersects Ohio Station Road, approximately 1½ miles; thence, southwest on Ohio Station Road to where it intersects the Cameron County Water District drain ditch, approximately ¾ mile; thence, following the Cameron County Water District drain ditch around the San Benito Water District Reservoir in a northeasterly direction to the northeast corner of the San Benito Water District Reservoir, approximately 2½ miles; thence, continuing along the Cameron County Water District drain ditch in a northeasterly direction to where it joins the Resaca Rancho Viejo, approximately 5¼ miles; thence; south and east along the meanderings of the Cameron County Water District drain ditch to where it again joins the Resaca Rancho Viejo, approximately 3 3/10 miles; thence, following the meanderings of the Resaca Rancho Viejo in an easterly direction to where it intersects FM Road 1421, approximately 2 miles; thence, following FM Road 1421 in a southerly direction to where it intersects FM Road 1732, approximately ⅜ mile; thence, following FM Road 1732 in an easterly direction to where it intersects Carmen Avenue, approximately 1¾ miles; thence, following Carmen Avenue in a southerly direction to where it intersects the south loop of the Resaca de la Guerra, approximately 3½ miles; thence, following the meanderings of the Resaca de la Guerra in an easterly direction to where it intersects the MP Railroad, approximately 7 miles; thence, following the MP Railroad in a southerly direction to where it intersects Boca Chica Boulevard, approximately 1½ miles; thence, following Boca Chica Boulevard in an easterly direction to where it becomes Boca Chica Road and continuing in the same direction on Boca Chica Road to where it intersects a drain ditch, approximately 9½ miles; thence, following this drain ditch in a northerly direction to where it intersects the Brownsville Ship Channel, approximately 3 miles; thence, following the Brownsville Ship Channel in a northeasterly direction to where it enters the Gulf of Mexico, a distance of approximately 17½ miles.

Authority: Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 17th day of December 1984.

K.R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84–33226 Filed 12–20–84; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 301, 325, and 381

[Docket No. 82–020F]

Transportation and Other Transactions of Animal Food Containing Meat and/or Poultry Products

Correction

In FR Doc. 84–31767, beginning on page 47475 in the issue of Wednesday, December 5, 1984, make the following correction: On page 47476, in the first column, the tenth line of the last (incomplete) paragraph should read "This final rule will not result in an annual".

BILLING CODE 1505–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

Foreign Banks; Clarification and Definition of Deposit Insurance Coverage

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: After publishing a proposed rule (49 FR 20714, May 16, 1984) and considering the comments made on the proposed rule, the FDIC is making final changes to its International Banking Act

regulations. The changes pertain primarily to existing asset pledge and asset maintenance requirements and to a new section dealing with concentrations of transfer risk. In addition to changes concerning acceptable assets, the asset pledge provision is being changed in regard to the amount required; and the allowance of a credit for any other pledge-like transaction to a state or the Comptroller of the Currency is being eliminated. A minimum capital equivalency ledger account evidencing funding of the branch by the parent bank will replace the existing asset maintenance rule. The new rule emphasizes the FDIC's intent that there be an equivalent for capital in insured branches. Certificates of deposit without a valid waiver of offset agreement will require adjustments to the capital equivalency ledger account and may not be included in the asset pledge.

Regulatory limitations for concentrations of transfer risk to the home country and to any other single country, respectively, by an insured branch are being added to the existing regulation. This section, which is being published as a final rule, is based on the principle that excessive concentrations of risk are, by their very nature, imprudent. Since the limitations are somewhat different from those proposed in their focus on the limitations as percentages of capital equivalency and in providing different limitations for the home country and any other country, comments on the changes in the limitations as they differ from those proposed will be accepted for a period of 45 days after the publication of this regulation.

The definition of affiliate is also being revised. Other changes are primarily housekeeping in nature.

DATES: The regulation will become effective on January 22, 1985. Comments on the changes in the limitation at 12 CFR 346.23 must be received no later than February 4, 1985.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, or delivered to room 6108 at the same address between 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Hugh W. Conway, Review Examiner, or Joseph Duffy, Senior Financial Analyst, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, at (202) 389–4345 or (202) 389–4291, respectively.

SUPPLEMENTARY INFORMATION: On May 16, 1984, the FDIC published proposed amendments to its rule implementing the deposit insurance provisions of the International Banking Act of 1978 (49 FR 20714, May 16, 1984). The FDIC received eight comments on the proposed regulation. Six were from foreign banking organizations with operations in the United States, one was from an attorney, and one was from the Institute of Foreign Bankers ("Institute"). Of these comments, the last was the most detailed and three of the other comments merely stated agreement with it, while two of the other comments stated agreement with the Institute comments, as well making specific comments on certain portions of the proposed rule. On the whole, the comments did not favor the proposed changes, although some minor specific changes were endorsed. Some comments were generally in favor of retaining the status quo; one comment stated that the FDIC should concentrate on securing risk-based deposit insurance premiums instead of on this proposal. The issues discussed in the comments pertain primarily to the asset pledge, the capital equivalency ledger account, and the provisions relating to country exposure, that is, concentrations of transfer risk.

The FDIC has considered all comments carefully, and the proposed rule is being adopted in substance as a final rule. In addition to technical changes, some more significant changes from the proposed rule are being adopted, and those significant changes will be discussed here in some detail. The supplementary information on the proposed rule should be consulted, however, for full explanation of the rationale for the rule being adopted here. As noted in the proposed rule, the FDIC believes that the changes are needed to clarify FDIC policy on the subject, to protect the deposit insurance fund, and to promote equality among all insured entities. The amendments would not have a substantial effect on competition in general but would in the main promote competitive equality between insured State and Federal branches and between insured branches and other insured institutions.

Asset Pledge

The current asset pledge rule, at 12 CFR 346.19, requires that a foreign bank must pledge assets equal to 10 percent of the insured branch's average liabilities for the last 30 days of the most recent calendar quarter, with an allowance for a credit of up to five percent for assets required to be pledged to a state or the Comptroller of the Currency. The proposed rule specified a five percent pledge to the FDIC, with no credit for any pledge required by a state or the Comptroller. The proposed rule also would have excluded liabilities to all affiliates, not just liabilities to wholly-owned subsidiaries as under the present rule, from the liability base.

In general, the comments supported many of the amendments to the pledge of assets requirement, requested even further modifications, and expressed a desire for the FDIC to encourage individual states and the Comptroller of the Currency to reduce their pledge or pledge-like requirements. (One comment indicated a continuing desire to eliminate the capital equivalency ledger account as "duplicative of the pledge," an option not being considered here or in the proposed regulation.) The FDIC believes that further reductions in the pledge requirement are not warranted and believes that the rule being adopted will both protect the deposit insurance fund and be fair and reasonable to foreign banks which are subject to the asset pledge requirement. The very essence of the pledge of assets is that the assets pledged should be as free from risk and as liquid as possible in order to provide sure and immediate protection to the insurer if an insured branch should fail. Further, the FDIC believes that any proposals to reduce or amend requirements for state or other federal agencies should be pursued directly with those agencies by interested parties, and the FDIC further notes in this regard that the Comptroller of the Currency is required to conform to pertinent statutory mandates (see 12 U.S.C. 3102(g)).

Comment was specifically requested on the proposed requirement that a certificate of deposit may be included in the pledge only if a valid waiver of offset has been executed by the issuer. (A similar requirement would apply to the adjustments to the capital equivalency ledger account discussed later in this document.) The Institute commented that the waivers are difficult to obtain and therefore the requirement should be eliminated, at least in regard to negotiable certificates of deposit (the elimination of the negotiability requirement was supported). The FDIC believes that in spite of the fact that there may be some difficulty in obtaining the required waivers, the protection of the deposit insurance fund is greatly enhanced and any related burden is therefore justifiable. In that regard, the FDIC notes that the requirement only pertains to the asset pledge and the capital equivalency ledger account and not to all assets held

by the branch. Although the Institute also argued that the waiver requirements would create a competitive disadvantage, the FDIC believes that any such disadvantage, if it exists, is justified by the significant benefits to the deposit insurance fund. The Institute also supported elimination of the requirement that certificates of deposit must be negotiable; that requirement was eliminated with the addition of the waiver provision because of the difficulty of obtaining the required waivers with each negotiation.

There were several other comments about the assets which can be pledged. One comment stated that the proposed change eliminating from the pledge all assets issued by all affiliated institutions or institutions from the same country as the foreign bank was too broad, but the comment focused on the previously-existing across-the-board elimination of home country assets, rather than on the extension of the provision to all affiliates of the foreign bank. The same comment praised the exclusion of liabilities to all affiliates from the basis of computation. Since the FDIC has removed the proposed change eliminating deposit insurance coverage for deposits of all affiliates, as discussed later in this document, neither of these proposed corresponding changes to the asset pledge is being retained.

One comment suggested that certificates of deposit and bankers acceptances issued by agencies should be included as eligible assets. This recommendation is being adopted in the final regulation, except that the terminology in § 346.19(d)(1) is being varied to accommodate the fact that agencies are not deposit-taking entities for FDIC purposes. Another comment suggested that dollar-denominated debt instruments issued by countries with sound financial conditions should be eligible. Since pledged assets should be of high liquidity and the highest quality in general and since the risks involved with holding home country assets if the branch fails, as well as the administrative burden of monitoring such assets, could dissipate the worth of the pledge, such a change is simply not warranted insofar as the asset pledge is concerned.

The Institute proposed retention of the provision allowing for a surety bond in lieu of pledging assets, commenting that elimination of the option is due to the prohibitive costs of such surety bonds and that its elimination would preclude development of such bonds. As stated in the proposed regulation, the FDIC believes that it cannot approve the use of a surety bond in lieu of an asset pledge consistent with its responsibilities. The cost of such a bond is not the primary reason for its elimination; rather, the fact that recovery on such a bond could be protracted and/or difficult is the primary reason for the change. Should a suitable bond be developed in the future, the FDIC will consider its use at that time.

The Institute also commented that regulatory changes should be incorporated into the deposit agreement, that a model deposit agreement should be provided, and that the regulation should specify that the FDIC consents to the adoption of that model deposit agreement by the foreign bank and the depository. Few changes to the deposit agreement are required (primarily those regarding the elimination of the detailed report required of the foreign bank when assets are substituted without need of FDIC consent and the addition of the quarterly report required of the foreign bank), but the model deposit agreement will be amended as necessary; and it will continue to be, as it is now, available upon request. The Institute's last suggestion apparently requests that the FDIC approve all agreements without any review or knowledge of individual agreements. That suggestion has been rejected. The asset pledge and the related agreement are extremely important to the insurance function and, at this point, the FDIC considers it prudent to retain oversight over these agreements. In addition, no substantial benefit from the suggested procedure is ascertainable.

Several clarifying changes are being made in the final regulation.—Changes are being made at § 346.19(b)(1) and § 346.19(e)(2)(iii) to state clearly that the assets comprising the required five percent of liabilities should be valued based on the lower of principal amount or market value. This principle is apparent in the existing § 346.19(e)(2). Similarly, § 346.19(e)(2)(iii) now specifies that the value of liabilities should be computed pursuant to the manner prescribed in § 346.19(b). Another change is being made at § 346.19(b)(5) to specify the intent that the allowable obligations must be general obligations.

Capital Equivalency Ledger Account

The proposed rule advanced the concept that each insured branch would maintain a capital equivalency ledger account and proposed to revise 12 CFR 346.20, the asset maintenance rule, to accommodate this requirement. FDIC's current asset maintenance rule requires that insured branches maintain assets equal to liabilities on an average daily basis for a weekly period. Under the proposal, a branch would have to maintain a minimum capital equivalency ledger account equivalent to five percent of the total liabilities of the branch, with the funds for this account being supplied by the parent bank. The minimum requirement would apply to sound, well-managed insured branches; those with financial or managerial problems would be required to maintain a larger capital eqivalency ledger account. As stated in the proposal, the proposed five percent minimum corresponds to the five percent minimum adjusted equity capital required at the time of the publication of the proposal by FDIC Board of Directors' policy for insured State nonmember banks and other financial institutions involved in transactions requiring FDIC approval. The proposal stated that the Board's capital policy was currently under review, that it was likely that changes in the minimum acceptable level of capital would be made, and that changes in the general policy on capital for banks would be incorporated into the final rule dealing with insured branches. Comment was specifically requested on this point.

Like the asset maintenance rule, the proposal provided that the amount in the required capital equivalency ledger account would be reduced by certain items; that is, amounts in the account corresponding to enumerated items in the regulation would not count toward the amount required to be in the capital equivalency ledger account. The pertinent items are the following: the net balance of funds due from the head office or any other branch, agency, or office of the foreign bank or from any affiliate of the foreign bank; the amount of any deposit of the branch in a bank unless the bank has executed a valid waive of offset agreement (comment was specifically requested on this point, and the discussion on the requirement in the context of the pledge of assets should be consulted); the amount of any asset not supported by sufficient credit information or evidence of title, as determined at the most recent examination; and five percent of the branch's excess exposure to any one foreign country where that exposure is greater than 50 percent of the required capital equivalency ledger account.

The comments on the capital equivalency ledger account were critical of the proposed changes. The comments on the account in general were that the concept and administration of the account were unclear and that, if the proposal were retained, it should be modified and reissued for comment.

Some comments stated that the existing asset maintenance rule should be retained. The Institute disagreed with the concept that the FDIC would treat this account in the same fashion as it would capital for other insured entities, arguing that such a policy would be contrary to international banking regulation, would place insured branches at a competitive disadvantage, and would represent a fundamental shift in existing policy.

The FDIC has had an asset maintenance rule for some time and has articulated from the outset its belief that such a policy of requiring a substitute for capital for insured branches is warranted. The capital equivalency ledger account is in effect a modification of the existing asset maintenance rule, a modification which focuses more particularly on an equivalent for capital for insured branches. The concept of a capital equivalency ledger account is thus not a significant deviation from existing policy but rather primarily a clarification which also has the effect of putting insured branches on a more nearly equal competitive footing vis-a-vis other entities regulated by the FDIC. In addition, the FDIC finds no support for the argument that the requirement that insured branches maintain an equivalency for the capital required of domestic entities is contrary to principles of international banking supervision. Thus, for the foregoing reasons and also because comments have already been solicited on this subject, neither additional publication nor further comment on the concept is necessary or warranted. In response to comments, certain changes have been made for the purpose of clarification.

As noted, comment was solicited on whether the capital requirements to be applied to FDIC-regulated entities should apply to insured branches. Although the comments were generally against the imposition of capital policies in regard to insured branches, they did not focus on the use of the same percentage figures or on any other specific aspects of capital. The FDIC has published a proposed rule concerning capital adequacy (see 49 FR 29,399, July 20, 1984). Under the proposed capital rule, total capital would have to be six percent of total assets. The five percent figure is being retained in the final regulation here, but it is the intention of the FDIC to conform that figure to any figure adopted in any final regulation pertaining to capital requirements and to issue a final regulation concerning the capital equivalency of insured branches at the time of the publication of any final regulation on the general capital requirements. Other corresponding changes also may be made. For instance, the proposed capital regulation would not require deductions for assets classified "doubtful," and it is contemplated that a corresponding change would be made in this regulation if that provision were adopted in the capital regulation.

The Institute argued that the current exemption in the asset maintenance rule, at 12 CFR 346.20(c), for branches complying with a "more restrictive" (that is, a greater percentage of assets to liabilities) requirement should be retained. The FDIC has had substantial difficulty with this exemption. It has been extremely difficult to ascertain exactly which state requirements are in fact more restrictive. For instance, qualifying assets may vary substantially. The FDIC has had to rely on state interpretations, and "more restrictive" requirements have often in fact not been so. Accordingly, the current exemption has not been retained.

A number of changes are being made based upon the comments received. The first concerns one of the basic aspects of the proposal, funding by the parent. The proposal stated that funding was to be by the parent, but one comment noted that it was unclear whether the funds had to come from the head office or could come from related offices and affiliates. Accordingly, the final regulation states that only amounts due to the parent bank or its branches or agencies can be included in the capital equivalency ledger account. It was also noted that the regulation does not state the period upon which the computations are based; the final regulation states that the computation should be made on a daily basis, the same basis as that used by other insured domestic entities.

Another comment stated that it was unclear whether related liabilities were to be excluded from the computation base, and the comment recommended that all deposits to offices of the foreign bank and to all affiliates be excluded. The intention to exclude those liabilities excluded under the current asset maintenance rule, that is, liabilities to offices of the bank and to wholly-owned subsidiaries, has now been definitely stated in the regulation.

The Institute also requested that, as with the asset maintenance rule, a foreign bank should be able to aggregate its branches in a state for purposes of conforming to the capital equivalency ledger account. The FDIC agrees, and such a statement has been added as 12 CFR 346.20(c).

The rule governing the capital equivalency ledger account is intended to ensure that the parent bank has enough of its own funds in the branch to meet the minimum capital equivalency requirement. Plainly, branches can be expected to have frequent transactions with their parent banks, both through the capital equivalency ledger account and other interbank and intrabank accounts on the branch's books, which will impact on the amount of the parent bank's own funds in the branch. The rule gives recognition to the activities of the parent bank in other branch accounts by adjusting the account for any net due to parent or due from parent balances. Likewise, assets of the branch used to make or acquire poor quality loans, loans without adequate credit files or other documentation, or loans to the parent bank of its affiliates represent an actual or potential reduction in the parent bank's own funds in the branch. Recognition is given to this fact by requiring offsets against the parent bank's own funds for assets listed under § 346.20(b).

The questions concerning vagueness and uncertainty appear to be directed at the mechanics of the account, primarily at the adjustments to the account. The proposal was couched in terms of "deductions" from the capital equivalency ledger account. This terminology was intended to mean that amounts equal to the designated categories of assets would be deducted from the capital equivalency ledger account and that the account would have to be maintained at the required five percent level after the deductions. One comment was that the account would in reality have to be "increased." Although adding to the account is a possible method of coming into conformity, at least one other possible approach would be to sell off sufficient unacceptable assets. A non-substantive change has been made to the introductory language at § 346.20(b)(1) to clarify this point. For further information on the mechanics of the account, the FDIC has prepared a sample computation which will be available upon request. Another clarifying change has been made at § 346.20(a) to state that the account is a liability account.

In regard to specific adjustments to the amount in the capital equivalency ledger account, some changes are being adopted; however, other recommended changes have been rejected. The Institute asked that deductions for assets lacking sufficient credit information not be required if, subsequent to the examination which

uncovers the deficiency, the deficiency is corrected. The FDIC has amended the proposed regulation to state that the appropriate regional director may, upon request, determine the adequacy of such credit information subsequent to the examination finding the information to be inadequate (in addition, clarifying changes concerning the adequacy of credit information have been made in the language of footnote 6). There was also a request to clarify that an insured branch need conform only to the policy contained in the regulation and not to any outstanding FDIC order granting deposit insurance; and such a statement that, unless otherwise stated, an insured branch need not conform to asset maintenance conditions in orders issued prior to the regulation's effective date has been added.

The requirement that waivers of offset be obtained if the amounts represented by certificates of deposit are included in the account is being retained for the same reasons discussed in regard to the asset pledge. One comment requested that § 346.20(b)(3) be changed to avoid the harshness of the across-the-board waiver of offset requirement. the language suggested by the comment is somewhat difficult to understand. It appears to suggest that, if retained, the deduction for certificates of deposit without the waiver should be for the lesser of the deposits of the branch in unrelated bank depositories or the aggregate deposits due to all offices of the foreign bank parent. The FDIC has studied this suggestion with some care and has concluded that the provision would be extremely difficult, if not impossible, to administer and to supervise. Knowledge of the foreign bank's position in this regard is not ordinarily available to the FDIC.

In regard to the deduction for excess exposure to any one country, the Institute argued (as did other commentary) that such an automatic deduction is unwise, but that, if retained, the deduction at 12 CFR 346.20(b)(6) should be five percent of the exposure which exceeds 50 percent of the capital equivalency ledger account. That was the intended effect; and although the FDIC believes that this concept is clear in the proposed regulation, the pertinent language has been amended to try to clarify that intent. Another change is being made at 12 CFR 346.20(b)(6) to make clear that the computation is based on the amount required, not the amount actually in the account; this language was inadvertently omitted.

Concentrations of Transfer Risk

Some of the critical comments relate to the proposed new section, 12 CFR 346.23, dealing with country exposure for insured branches. The proposed rule would limit exposure to any one country to 10 percent of an insured branch's assets. (As previously noted, 12 CFR 346.20(b)(6) would also require an adjustment for excessive exposure in the capital equivalency ledger account.) As noted in the proposed rule, the types of assets which would be subject to the concentration of transfer risk limitation are specified in the Country Exposure Report Form (FFIEC No. 009) and accompanying instructions. The proposed regulation did not include any phase-in or grandfather provisions, and comments concerning such possible grandfather provisions were specifically solicited.

A number of arguments against the proposal were set forth in the comments. In general, commenters were concerned about the "strict and inflexible" limitations and the practical difficulty of conforming to the rule. Some commentary stated that the proposed rule is inconsistent with existing regulatory policy, including that of the FDIC, and with existing Congressional policy. As discussed below, the FDIC has considered and rejected these arguments.

The institute argued that the proposed rule was inconsistent with the International Lending Supervision Act ("ILSA" or "the Act") and with principles of international bank regulation. Citing the Joint Memorandum re Program for Improved Supervision and Regulation of International Lending (April 7, 1983), the Institute argued that lending limits based both on objective and subjective criteria were rejected by the regulators and that those concerns ultimately were carried forward into the ILSA, which also rejected such limits. The Institute cited no authority for its contention that Congress clearly rejected such limits and simply argued that the Act authorized the establishment of special reserves against loans to borrowers in countries in which country risk problems have become apparent. As the Institute noted, these reserves were not extended automatically to insured branches of foreign banks, and the ILSA regulations specifically requested comment on whether or not these limitations should be extended to such entities. In fact, comment was requested because of the Act's statement that it should apply to such entities "to the extent determined by the appropriate Federal banking agency." 12 U.S.C. 3902(2)(B).

There is no support for the argument, and the Institute did not present any, that ILSA precluded the FDIC from taking steps in regard to the concentration of transfer risks with which the FDIC is concerned here. In fact, the Act arose out of a conflict between regulators, on the one hand, who wanted no Congressional action and who opposed fixed lending limits and proposed to establish reserves on their own and Congress, on the other hand, which felt that Congressional action was necessary. *See, e.g.*, H.R. Rep. No. 98–177, 98th Cong., 1st Sess. 26–27 (1983) (report on predecessor bill to ILSA). Thus, what Congress did was to mandate certain steps, while not precluding others. In addition, the limits here differ fundamentally from the statutorily-prescribed reserves. These limits of concentration are based not on the difficulties already experienced with a particular country, as are the statutory reserves, but on the principle that concentrations in excess of the stated limitations are, as a general matter, not prudent. One comment stated that the proposed rule does not distinguish between present and future risks. In a sense, that lack of distinction between present and future risks is the goal of the limits being established. The goal is simply to eliminate the risks arising when assets of one entity, here an insured branch, are concentrated.

The Institute also argued that country risk exposure can only be evaluated effectively on a consolidated basis and that treating insured branches as separate corporate entities will produce a distorted and misleading result, possibly disadvantaging insured branches as opposed to domestic branches. This argument ignores the fact that insured branches of foreign banks are in fact treated as separate entities for deposit insurance purposes; branches of an insured bank are not. The concept of the International Banking Act of 1978 is that, although an insured branch continues to be a branch and therefore not a separate legal entity, it is a separate entity for purposes of deposit insurance. That principle is the principle upon which deposit insurance is granted to insured branches and the principle upon which much of the regulation is based.

The Institute also argued that the limits are contradictory to the Basle Concordat, an international supervisory document agreed to by the central banks of 12 major countries, including the United States. The Basle Concordat establishes guidelines but does not preclude actions by the supervisor. In addition, it does not specifically address concerns which exist when deposit insurance relates to an entity.

The Institute also argued that evaluation of country exposure must be on a case-by-case basis, based on all aspects of the operation of the branch and the parent. In that regard, it noted the complexity of such evaluations and the fact that insured branches of foreign banks are the only entities against which country exposure limitations are being imposed. While there is no stated limitation for domestic institutions, the FDIC does, both in its examination procedures and evaluation of banks and in general practice, have policy guidelines used in dealing with concentrations in domestic institutions; and the limitation here is far more liberal than the FDIC's policy for domestic institutions. The FDIC does not believe that there are substantial discrepancies between its treatment of insured branches and domestic entities. If there were discrepanices, however, those discrepancies would be justified on the ground that regulatory concerns applicable to banks generally are exacerbated by the fact that, whereas the FDIC and other federal agencies have substantial control over entire domestic entities, they have virtually no control over the parent to which an insured branch is inextricably tied. The type of consolidated evaluation which is recommended is simply not a feasible possibility.

One comment suggested that the provision be modified to exempt or allow higher limits for short term deposits, for deposits with banks in countries not classified or identified as having transfer problems by the Interagency Country Exposure Review Committee, and for deposits with banks in foreign countries which the branch can show do not have material transfer risk problems. The limitation is directed at the concentration of the assets and not at the type or apparent quality of individual assets, and the suggestion has been rejected.

The Institute proposed several specific changes to the rule if it were adopted. First, it proposed that the regulation incorporate the current 25 percent limitation. (Another comment generally supported the 10 percent limit except for the home country.) It also proposed that the regulation provide for flexibility by allowing individual and insured branches to exceed the limit upon written FDIC consent; provide an exception for insured branches whose assets do not exceed a specified minimum, as well as for newly established branches; and allow a separate, higher limit for exposure to the home country. This additional limitation for exposure to the home country was also recommended by two individual banks. The Institute also stated that more detailed computation instructions are needed, that FFIEC 009 is not familiar to most branches and is imprecise, and that the regulation should make some adjustments to FFIEC 009 (specifically, the same adjustments based on the FFIEC 009 that were incorporated in the country exposure disclosure and special reserve requirements recently adopted under ILSA). The Institute also asked to explore further the issue of country exposure computation if a specific limit were adopted.

Finally, the Institute recommended a phase-in of at least five years and grandfathering until maturity of existing international loans with extended loan maturities. Two banks also commented on this phase-in. The first proposed that the phase-in should consider the percentage of concentration to a particular country, the type of commitment, and the degree of risk. Another noted that there was no proposed phase-in but gave no specific suggestions.

As noted, the FDIC has considered all comments and has determined to adopt the proposed rule in concept with some additional changes. The FDIC has also determined that further discussion of the concept in general is not warranted since all those desiring to do so have had the opportunity to comment. The FDIC considers the current 25 percent limitation to be too high and has decided to adopt limitations which reflect the focus on the capital equivalency being required for insured branches. The limitations being adopted here, which differ from the proposed rule, are 200 percent of the required capital equivalency ledger account for concentrations to the home country, that is, the country in which the foreign bank parent is chartered (under current requirements, roughly equivalent to 10 percent of total assets) and 100 percent of the required capital equivalency ledger account for concentrations to any other country (under current requirements, roughly equivalent to five percent of total assets).

The final regulation differs from the proposed rule in that the basis for computing concentrations has been changed from a percentage of assets to a percentage of the required capital equivalency ledger account. This change was made in order to more closely parallel similar risk analyses in domestic banks. Since capital is considered to be a cushion of protection to depositors and to the insurance fund, most similar analyses in domestic institutions are assessed from the perspective of a percentage of capital. While the capital equivalency ledger account is different from the capital of a domestic institution, such an account provides a source of net funds supplied by the parent bank; and the regulation defines the country exposure limitations as a function of these funds.

The final regulation also differs from the proposal in that different limitations are imposed on exposure to the home country and exposure to other countries. The FDIC recognizes a branch's economic relationship with its home country and acknowledges that the focus of the business of many branches will be with home country borrowers. The Board is therefore allowing a higher limitation (200% of the required capital equivalency ledger account) on exposure to the home country. The 100% limitation is being imposed on other country exposure in order to more closely parallel lending practices of domestic banks. With a few minor exceptions, these limitations exceed country exposure practices of domestic institutions.

These limitations are being adopted as part of the final regulation and will be effective upon the effectiveness of the regulation. Comments on the limitations as they differ from those set forth in the proposed regulation will therfore be accepted for a 45 day period beginning on the effective date of the regulation. The FDIC will evaluate the comments received and will make changes, as warranted, to this provision of the regulation.

In regard to the argument that the regulation should allow an exemption for very small branches and new branches, an exemption for small branches has been rejected because the concentration level is perhaps more important for those branches than for larger ones. In regard to newly insured branches, the FDIC is adopting a provision that the first insured U.S. branch of a foreign bank may be permitted a limit of the larger of $5 million or 200 percent of the required capital equivalency ledger account for concentration to the home country and

the larger of $5 million or 100 percent of the required capital equivalency ledger account for concentrations to any other country, respectively, for its first three years of operation.

On the phase-in in general, in addition to the limit being allowed for the first branch of a foreign bank, the FDIC has determined that all existing branches should be permitted three years to reduce any existing exposure, including commitments. This procedure was followed in a July 13, 1981 order approving the deposit insurance application of a previously-existing branch which sought a phased-in requirement. Under the final rule, the branch would be able to stagger the phase-in as it desired during the three-year period, so long as the concentrations are not increased during the period. The FDIC believes that three years provides ample time for an insured branch to bring itself into conformity without substantial hardship and that determinations based on variants within the extensions of credit would be at least somewhat subjective and difficult to administer. In regard to the requests that the limitations might be exceeded upon written consent, however, the FDIC is adopting a provision whereby branches which are insured on November 19, 1984 (the date of Board action on the final regulation) may, where extraordinary circumstances exist, petition the Board to allow concentrations in excess of the stated limitations beyond the three-year period.

In regard to the Institute's comments on the need for more detailed and amended computation instructions, apparently the request is that FFIEC 009a (Country Exposure Information Report) be followed in the regulation. That form, by contrast to the FFIEC 009, is for purposes of public disclosure of aggregate positions and not for general supervisory purposes. In fact, however, the requested adjustments, except for the exclusion of commitments, are already incorporated in the FFIEC 009. The FDIC believes that commitments (with the exception of those subject to further bank approval, as noted earlier) should not be excluded since such commitments represent a funding liability for the branch. Further, the FDIC believes that the FFIEC 009 instructions are sufficiently detailed and that neither further detail nor further comment is necessary.

Miscellaneous

The proposed rule included several miscellaneous substantive changes. The proposed change at 12 CFR 330.1(d)(3) would specify that deposits in an insured branch which are to the credit of the head office, another branch, an agency, an office, or an affiliate of the foreign bank would not have been insured. The effect of the change would be to eliminate insurance of deposits to the credit of all affiliates, not just to wholly-owned subsidiaries of the foreign bank as in the current regulation.

The Institute did not oppose this change so long as these liabilities were not subject to deposit insurance assessment. The FDIC decided not to make the proposed change, largely because deposit insurance determinations should have a higher degree of certainty than regulatory determinations in general and there would be some degree of difficulty in identifying with certainty which entities are in fact affiliates. The amended definition of "affiliate" at 12 CFR 346.1(o) is being retained for other regulatory purposes, however. The Institute also requested that international banking facility deposits be eliminated from the asset pledge and capital equivalency ledger account computations since such liabilities are not, pursuant to 12 U.S.C. 1813(*l*)(5)(B), deposits and are neither assessed nor insured. This suggestion has been rejected. Domestic banks cannot make similar deductions, and these non-deposit liabilities remain as liabilities of the branch, even thought they are not deposit liabilities.

In accordance with the Regulatory Flexibility Act, the Board of Directors certified in the proposed rule that the rule would not have a significant economic impact on a substantial number of small entities. Presently, there are 22 foreign banks which have insured branches, and they are worldwide institutions with assets ranging from approximately $1 to $50 billion. The requirements of 5 U.S.C. 603 and 604 that initial and final regulatory flexibility analyses be made thus do not apply to this proposal since the rule would not impose an added economic burden on small entities.

Pursuant to FDIC's statement of policy on the drafting of regulations, it has been determined that a cost-benefit analysis, including a small bank impact statement, is not required.

In addition, the amendment involves changes to an existing reporting system previously approved by the Office of Management and Budget (OMB No. 3064–0010, Quarterly Report of Pledged Assets). The proposal was submitted to the Office of Management and Budget for review pursuant to 3504(h) of the Paperwork Reduction Act and has been reviewed and approved.

List of Subjects in 12 CFR Part 346

Bank deposit insurance, Foreign Banks, Banks, banking, Reporting and record keeping requirements.

For reasons set out in the preamble, the Board of Directors hereby amends Part 346 of chapter III of title 12 of the Code of Federal Regulations as set forth below.

PART 346—FOREIGN BANKS

1. The authority citation for Part 346 reads as follows:

Authority: Secs. 5, 6, 13, Pub. L. 95–369, 92 Stat. 613, 614, 624 (12 U.S.C. 3103, 3104, 3108); secs. 5, 7, 9, 10, Pub. L. 797, 64 Stat. 876, 877, 881, 882 (12 U.S.C. 1815, 1817, 1819, 1820).

2. In 12 CFR 346.1, paragraph (o) is revised to read as follows:

§ 346.1 Definitions

* * * * *

(o) "Affiliate" means any company that controls a foreign bank, any other company that is controlled by the company which controls the foreign bank, and any company controlled by the foreign bank. The term "company" means a corporation, partnership, business trust, association, or similar organization. A company shall be deemed to "control" another company if the company directly or indirectly owns, controls, or has the power to vote 50 percent or more of any class of voting securities of the other company or it controls in any manner the election of a majority of the directors or trustees of the other company.

3. By revising 12 CFR 346.19 to read as follows:

§ 346.19 Pledge of assets.

(a) *Purpose.* A foreign bank that has an insured branch shall pledge assets for the benefit of the FDIC or its designee(s). Whenever the FDIC is obligated under section 11(f) of the Federal Deposit Insurance Act (12 U.S.C 1821(f)) to pay the insured deposits of an insured branch, the assets pledged under this section shall become the property of the FDIC to be used to the extent necessary to protect the deposit insurance fund.

(b) *Amount of assets to be pledged.* (1) A foreign bank shall pledge assets equal to five percent of the average of the insured branch's liabilities for the last 30 days of the most recent calendar quarter. The value of the assets shall be computed based on the lower of principal amount or market value. This average shall be computed by using the sum of the close of business figures for the 30 calendar days ending with and including the last date of the calendar

quarter divided by 30.[5] In determining its average liabilities, the branch may exclude liabilities to other offices, agencies, branches, and wholly owned subsidiaries of the foreign bank. Adjustments to the amount pledged shall be made within two business days after the last date of the calendar quarter.

(2) The initial five-percent deposit for a newly established insured branch shall be based on the branch's projection of liabilities at the end of the first year of its operation.

(3) The FDIC may require a foreign bank to pledge additional assets or to compute its pledge on a daily basis whenever the FDIC determines that the foreign bank's or any branch's condition is such that the assets pledged under § 346.19(b) (1) and (2) will not adequately protect the deposit insurance fund.

(4) Each insured branch shall separately comply with the requirements of this section. A foreign bank which has more than one insured branch in a state may treat all of its insured branches in the same state as one entity and shall designate one branch to be responsible for compliance with this section.

(c) *Depository.* In carrying out the requirements of this section, a foreign bank shall deposit pledged assets for safekeeping at any depository which is located in any state. A foreign bank must receive FDIC's consent for the selection of the depository, and such consent may be revoked whenever the depository does not fulfill any one of its obligations under the agreement. Consent will not be granted for a depository which is an affiliate of the foreign bank.

(d) *Assets that may be pledged.* Subject to the right of the FDIC to require substitution, a foreign bank may pledge any of the following kinds of assets:

(1) Certificates of deposit that are payable in the United States and that are issued by any state bank, national bank, or branch of a foreign bank which has executed a valid waiver of offset agreement or similar debt instruments that are payable in the United States and that are issued by any agency of a foreign bank which has executed a valid waiver of offset agreement; *Provided,* That the maturity of any certificate or issuance is not greater than one year; and *Provided further,* That the issuing branch or agency of a foreign bank is not an affiliate of the pledging bank or from the same country as the pledging bank's domicile.

(2) Interest bearing bonds, notes, debentures, or other direct obligations of or obligations fully guaranteed as to principal and interest by the United States or any agency or instrumentality thereof;

(3) Commercial paper that is rated P–1 or its equivalent by a nationally recognized rating service; *Provided,* That any conflict in a rating shall be resolved in favor of the lower rating;

(4) Banker's acceptances that are payable in the United States and that are issued by any state bank, national bank, or branch or agency of a foreign bank; *Provided,* That the maturity of any acceptance is not greater than 180 days; and *Provided further,* That the branch or agency issuing the acceptance is not an affiliate of the pledging bank or from the same country as the pledging bank's domicile;

(5) General obligations of a state, county, or municipality or any agency, instrumentality, or political subdivision of the foregoing or any obligation guaranteed by a state, county, or municipality; *Provided,* That such obligations are not in default as to principal or interest;

(6) Obligations of the Asian Development Bank, Inter-American Development Bank, and the International Bank for Reconstruction and Development; or

(7) Any asset determined by the FDIC to be acceptable.

(e) *Deposit agreement.* A foreign bank shall not deposit any pledged asset required under § 346.19(c) unless accompanied by such documentation necessary to facilitate transfer of title and a deposit agreement acceptable to the FDIC has been executed. The agreement, in addition to other terms not inconsistent with this paragraph (e), shall give effect to the following terms:

(1) *Assets to be held for safekeeping.* The depository shall hold any asset deposited by the foreign bank pursuant to the deposit agreement for safekeeping as a special deposit free of any lien, charge, right of set-off, credit or preference in connection with any claim of the depository against the foreign bank.

(2) *Reporting Requirements.* (i) When the foreign bank first deposits assets, the depository shall provide the appropriate regional director and the foreign bank with a receipt which identifies the deposit of assets as having been made pursuant to the agreement under this section. The receipt shall specify, with respect to each asset or issue, the complete title, interest rate, series, serial number (if any), face value, maturity date, and call date. The foreign bank shall certify to the appropriate regional director and the depository the lower of principal amount or market value for each asset and the aggregate of those values for all assets.

(ii) The depository shall furnish the appropriate regional director with a quarterly report of the assets on deposit as of two business days after the last date of each calendar quarter. The report shall be furnished to the regional director within ten calendar days after the last date of the quarter. The report shall specify, with respect to each asset or issue, the complete title, interest rate, series, serial number (if any), face value, maturity date, and call date. If there has been no substitution of assets during the above reporting period in the assets on deposit, the depository may report to the regional director that there is no change; it need not report the detailed information regarding each asset or issue as required above.

(iii) The foreign bank shall furnish the appropriate regional director with a quarterly report of the assets on deposit as of two business days after the last date of each calendar quarter. The report shall be furnished to the regional director within ten calendar days after the last date of the quarter. The report shall specify, with respect to each asset or issue, the complete title, interest rate series, serial number (if any), face value, maturity date, and call date. If there has been no substitution of assets during the above reporting period in the assets on deposit, the foreign bank may report that fact; it need not report the detailed information regarding each asset or issue as required in the preceding sentence. The foreign bank shall certify to the appropriate regional director the lower of principal amount or market value for each asset and the aggregate value for all assets. The foreign bank shall also report to the regional director the average of the branch's liabilities, computed in the manner prescribed in § 346.19(b), for the last 30 days of the calendar quarter.

(3) *Examination of assets.* The depository shall hold any asset deposited by the foreign bank separate from all other assets. Assets may be held in book-entry form but must at all times be segregated on the records of the depository and clearly identified as assets subject to the agreement. The depository shall permit representatives of the foreign bank or the FDIC to examine the deposited assets.

(4) *List of pledged assets.* The depository shall furnish at the FDIC's request a written list of currently

[5] The close of business Saturday should be used for Saturday and Sunday. If the branch is closed on Saturday, the closing figure for Friday should be used for Friday, Saturday, and Sunday.

pledged assets. The list shall set forth information as requested by the FDIC.

(5) *Release of assets upon substitution of other assets.* (i) Except as otherwise provided, the depository shall release assets to the foreign bank whenever the foreign bank, at the time of the release, deposits with the depository other assets of the aggregate value not less than the aggregate value of the assets released. The foreign bank shall certify to the depository at the time of the release that the aggregate value of the assets deposited is not less than the aggregate value of the assets released. The aggregate value of any asset deposited or released shall be based on the lower of principal amount or market value.

(ii) Upon written notice by the FDIC to the depository and the foreign bank, a depository shall release assets without the consent of the FDIC only in accordance with the provisions of this subparagraph (5)(ii). The foreign bank shall, at the time of any release by the depository, deposit with the depository other assets of an aggregate value not less than the aggregate value of the assets released. The aggregate value of any assets deposited or released shall be based on the lower of principal amount or market value. The foreign bank shall certify to the depository that, after giving effect to the exchange, the aggregate value of all assets remaining on deposit is at least equal to the amount required to be pledged under § 346.19(b). The certificate shall specify as to each asset released and each asset pledged: (A) The complete title; (B) the interest rate, series, serial number (if any), face value, maturity date, call date, the lower of cost or market value of each asset; and (C) the aggregate amount, based on cost or market value, whichever is lower, of pledged assets. Upon receipt of the certificate and a statement by the foreign bank that a copy of the certificate is concurrently being furnished to the FDIC, the depository shall release assets.

(iii) The FDIC may suspend or terminate the right to exchange assets by written notice to the bank and the depository.

(6) *Release upon order of the FDIC.* The depository shall release to the foreign bank any pledged asset upon the written order of the FDIC. The depository shall release only the assets specified in the order. The release of such assets may be made without pledging other assets, unless otherwise provided in the order.

(7) *Release to the FDIC.* Whenever the FDIC is obligated under section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) to pay insured deposits of an insured branch, the depository shall release to the FDIC any pledged asset upon the written certification of the FDIC that the FDIC has become so obligated. Upon receipt of certification and release of all pledged assets, the depository shall be discharged from further obligation under the deposit agreement.

(8) *Interest earned on assets.* The foreign bank may receive any interest earned upon the pledged assets unless the depository receives an order by the FDIC prohibiting the receipt of interest.

(9) *Expenses of agreement.* The FDIC shall not be required to pay for any services under the agreement.

(10) *Termination of agreement.* The deposit agreement may be terminated by the foreign bank or the depository upon at least 60 days written notice to the other party. No termination shall be effective until (i) another depository has been designated by the foreign bank and approved by the FDIC, (ii) a deposit agreement acceptable to the FDIC has been agreed upon by the bank and the new depository; and (iii) the depository has released to the newly designated depository assets on deposit in accordance with the bank's written instructions, as approved by the FDIC.

(11) *Waiver of terms.* The FDIC may by written order relieve the foreign bank or the depository from compliance with any term or condition of the agreement.

(Approved by the Office of Management and Budget under control number 3064–0010.)

4. By revising section 12 CFR 346.20 to read as follows:

§ 346.20 Capital equivalency ledger account.

(a) The branch shall maintain a capital equivalency ledger account, a liability account, which is computed on a daily basis and which is equivalent at a minimum to five percent of the liabilities of the branch, exclusive of liabilities due to the parent bank or any other branch, agency, office, or wholly owned subsidiary of the parent bank. Only amounts due to the parent bank or its branches or agencies may be included in the account. The Board of Directors may require that the account be maintained at a higher level if the financial condition of the branch warrants such action; however, unless otherwise stated, conditions in orders issued prior to January 22, 1985 and granting deposit insurance which mandate more substantial asset maintenance requirements are superseded by this regulation.

(b) For purposes of determining compliance with paragraph (a), the capital equivalency ledger account shall not include amounts represented by the following items:

(1) Any net balance of funds due from the head office and from any other branch, agency, or office of the foreign bank or from any affiliate of the foreign bank;

(2) 50 percent or more of any asset classified "Doubtful" and 100 percent of any asset classified "Loss" in the most recent examination report prepared by the appropriate state or Federal authority;

(3) Any deposit of the branch in a bank unless the bank has executed a valid waiver of offset agreement;

(4) Any asset not supported by sufficient credit information to allow a review of the asset's credit quality, as determined at the most recent examination;[6]

(5) Any asset not in the branch's actual possession unless the branch holds title to such asset and the branch maintains records sufficient to enable independent verification of the branch's ownership of the asset, as determined at the most recent examination; and

(6) Five percent of the amount of exposure to any one foreign country which exceeds the sum represented by 50 percent of the amount required in the capital equivalency ledger account.

(c) A foreign bank which has more than one insured branch in a state may treat all of its insured branches in the same state as one entity and shall designate one branch to be responsible for compliance with this section.

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[6] Whether an asset has sufficient credit information will be a function of the size of the borrower and the location within the foreign bank of the responsibility for authorizing and monitoring extensions of credit to the borrower. For large, well known companies, when credit responsibility is located in an office of the foreign bank outside the insured branch, the branch must have adequate documentation to show that the asset is of good quality and is being adequately supervised by the bank. In such cases, copies of periodic memoranda that include an analysis of the borrower's recent financial statements and a report on recent developments in the borrower's operations and borrowing relationships with the bank would generally constitute sufficient information. For other borrowers, periodic memoranda must be supplemented by information such as copies of recent financial statements, recent correspondence concerning the borrower's financial condition and repayment history, credit terms and collateral, data on any guarantors, and, where necessary, the status of any corrective measures being employed.

Subsequent to the determination that an asset lacks sufficient credit information, an insured branch may not include the amount of that asset until the FDIC determines that sufficient documentation exists. Such a determination may be made either at the next examination, or upon request of the branch, on the appropriate regional director's determiation that the information is adequate.

5. By adding new 12 CFR 346.23 to read as follows:

§ 346.23 Country exposure concentrations.

Exposure of insured branches of foreign banks to borrowers in the country in which the foreign bank parent is chartered is limited to 200 percent of the amount required in the capital equivalency ledger account, and exposure to borrowers in any other single country is limited to 100 percent of the amount required in the capital equivalency ledger account. Exposure for insured branches should be determined pursuant to the Instructions for Preparing the Country Exposure Report (FFIEC 009). Insured branches operating as such on November 19, 1984 will be given until December 21, 1987, to reduce any existing excess exposure, including commitments. In extraordinary circumstances, an insured branch operating as such on November 19, 1984 may petition the Board of Directors for approval of concentrations in excess of the prescribed limits which extended beyond the stated three-year period. For a three-year period after the branch begins operation as an insured branch, the initial insured branch of a foreign bank will be permitted limits of (a) the larger of 200 percent of the amount required in the capital equivalency ledger account of $5 million for exposure to borrowers in the country in which its foreign bank parent is chartered and (b) 100 percent of the amount required in the capital equivalency ledger account or $5 million to borrowers in any other single country.

By order of the Board of Directors, November 19, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[FR Doc. 84-33279 Filed 12-20-84; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-234 (New Mexico-27); Order No. 408]

High-Cost Gas Produced From Tight Formations; New Mexico

Issued: December 19, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703) (1984)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This order adopts the recommendation of the New Mexico Energy and Minerals Department, Oil Conservation Division, that a portion of the Morrow Formation located in Lea County, New Mexico, be designated as a tight formation.

EFFECTIVE DATE: This rule is effective January 18, 1985.

FOR FURTHER INFORMATION CONTACT: Edward G. Gingold, (202) 357-5491 or Victor H. Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A.G. Sousa, Oliver G. Richard III and Charles G. Stalon.

The Commission amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1984)) to include a portion of the Morrow Formation located in Lea County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued August 23, 1984 (49 FR 34238, August 29, 1984),[1] based on a recommendation by the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico), in accordance with § 271.703, that a portion of the Morrow Formation located in Lea County, New Mexico, be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that a portion of the Morrow Formation located in Lea County, New Mexico, meets the guidelines contained in § 271.703(c)(2). The Commission adopts New Mexico's recommendation.

This amendment shall become effective January 18, 1985.

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

List of Subjects in 18 CFR Part 271

Natural Gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7171 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(183) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(183) *Morrow Formation in New Mexico.* RM79-76-234 (New Mexico-27).

(i) *Delineation of formation.* The Morrow Formation is located in Lea County, New Mexico, in Township 24 South, Range 33 East, NMPM, Section 11 through 14, 23 through 26, and 35 and 36 Township 24 South, Range 34 East, NMPM, Section 8 S/2, 9 S/2, 14 W/2, 15 through 17, 19 through 22, 23 W/2, 26 W/2, 27 through 34, and 35 W/2.

(ii) *Depth.* The Morrow Formation has a gross pay thickness of approximately 96 feet and begins at the base of the Atoka Formation and extends to the top of the Chester Formation. The average depth to the top of the Morrow Formation is 14,287 feet.

[FR Doc. 84-33262 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM4-22-000; Order No. 407]

Collection of NGPA Section 110 Allowances After January 1, 1985

Issued: December 19, 1984.

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations issued under section 110 of the Natural Gas Policy

Act of 1978 (NGPA) which allow a first seller to collect an allowance to recover certain costs incurred to perform production-related activities. The Commission is only amending its regulations to update the years that govern cost-of-service data employed to compute the amounts to be collected for costs incurred to perform certain production-related activities. The amendment allows producers to use more current data.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8307.

SUPPLEMENTARY INFORMATION: .

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations implementing section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3320 (1982), to allow producers to use more current data in computing the cost-of-service component for certain production-related costs.

II. Background

The Commission's regulations in § 271.1104 implementing section 110 of the NGPA permit a first seller to collect an allowance to recover certain costs incurred to perform production-related activities. The regulations define production-related costs [1] and provide guidelines as to how a first seller may qualify for the allowances in excess of the otherwise applicable maximum lawful price of the natural gas sold. In promulgating its rules, the Commission established two types of production-related allowances, generic and case-specific. Generic allowances were developed for delivery and compression.[2]

Production-related costs other than for delivery and compression, such as costs incurred to treat, liquefy, or condition gas are determined by the first seller based on a case-specific cost-of-service methodology in the regulations.[3] This methodology is based on operation and maintenance expenses, net plant investment, depreciation, rate of return, and taxes. *See* 18 CFR 271.1104(d)(3) (1984). Allowances for costs other than for delivery and compression.

The Commission proposed on September 28, 1984,[4] to amend its regulations at 18 CFR 271.1104 (1984), issued under section 110 of the NGPA. The Commission proposed only to update the years that govern cost-of-service data employed to compute the amounts to be collected for costs incurred to perform certain production-related activities. Only one comment (Comments of Indicated Producers) [5] was received in response to the notice of proposed rulemaking in this docket. That comment supported the amendments proposed in the notice and urged that they be adopted promptly.

III. Discussion

The Commission's regulations in § 271.1104(d) establish a cost-of-service methodology that applies to the computation of NGPA section 110 allowances other than those for delivery and compression. The Commission's regulations provide that a first seller computing the annual cost-of-service allowance must use the data for the years 1981 and 1982 for operation and maintenance expenses and tax expenses, and 1983 and 1984 for net plant investment, depreciation, and rate of return costs.[6]

The Commission is adopting its proposal and has amended references to the years 1983 and 1984 with the "year 1985 and each calendar year thereafter", in order to reflect more accurately the seller's actual current cost of service. Also, the Commission is updating any reference to a particular year, as appropriate. For example, the current regulations at § 271.1104(d)(3)(A)(*3*) provide that one of the expenses included in the average annual cost-of-service is depreciation. The part of the regulation reads as follows:

> An average annual depreciation expense for the two years 1983 and 1984 computed from the annual amounts used to depreciate the plant investment over that two-year period; . . .

The Commission is amending that portion of the regulation by changing the data base years as follows:

> An average annual depreciation expense for the year 1985 and each calendar year thereafter computed from the annual amounts used to depreciate the plant investment; * * *

The Commission is similarly amending the other four components of the methodology.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RRA) requires certain statements, descriptions, and analyses of proposed rules that will have a "significant economic impact on a substantial number of small entities." 15 U.S.C. 603(a) (1982). The Commission is not required to make such an analysis if it certifies that a proposed rule will not have "significant economic impact on a substantial number of small entities."

There are approximately 10,000 natural gas producers in the United States, many of which would be classified as small entities under the appropriate RFA definition.[7] This final rule may affect these entities by requiring them to amend the data used to calculate the cost-of-service allowance after January 1, 1985. The Commission does not believe that the burden imposed by this proposal will have a "significant economic impact"

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[1] Section 271.1104(c)(7) of the Commission's regulations defines "production-related costs" as costs other than production costs that are incurred to deliver, compress, treat, liquefy, or condition natural gas.

[2] Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978, and Compression Allowances Under section 110 of the Natural Gas Policy Act of 1978, 48 FR 5180 (Feb. 3, 1983) (Interim Rule); 48 FR 44495 (Sept. 29, 1983) (Final Rule and Order Granting in Part and Denying in Part Rehearing of Interim Rule); 49 FR 56 (Jan. 3, 1984) (Order Denying Application for Rehearing of Order No. 334 and Denying Requests for Stay of Order No. 334).

[3] Regulations Implementing section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act, 48 FR 5152 (Feb. 3, 1983) (Order No. 94–A) (Final Rule and Order on Rehearing of Order No. 94); 48 FR 24,039 (May 31, 1983) (Order No. 94–C) (Order Denying Rehearing and Denying Petitions for Stay); 49 FR 565 (Jan. 5, 1984) (Order No. 94l–E) (Clarification of Order No. 94–A).

[4] 49 FR 39,032 (October 2, 1984).

[5] The "Indicated Producers" include Phillips Petroleum Company and Phillips Oil Company, Arco Oil & Gas Company, Cities Service Oil & Gas Corp., Conoco, Inc., Gulf Oil Corporation, Mitchell Energy Corp., Mobil Oil Corporation, Mobil Exploration & Production Southeast, Inc., Mobil Producing Texas and New Mexico, Monsanto Oil Company, Pennzoil Company, Pennzoil Producing Co., Pennzoil Oil & Gas, Inc., Sun Exploration & Production Co., Tenneco Oil Company, Texaco, Inc., and The Superior Oil Company.

[6] Apparently, because the cost-of-service allowance refers to 1983 and 1984, a question arose whether the Commission intended that the methodology be used for allowances after 1984. The Commission in the notice of proposed rulemaking proposed to clarify that the methodology continues to apply after 1984. Several references to the years 1983 and 1984 have been amended to make clearer the Commission's intent that these allowances will continue to apply in the future to the extent that gas continues to be regulated under the NGPA. *See* Order No. 406, Docket No. RM84–14–000, issued November 16, 1984, mimeo, at 37. ("The Commission believes that the allowances in § 271.1104 for production-related costs should cease to apply to gas that is deregulated on January 1, 1985.")

[7] 5 U.S.C. 601(3), *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (1982). Section 3 of the Small Business Act defines small business concern as a business which is independently owned and operated and which is not dominant in its field of operation.

within the meaning of the RFA. Accordingly, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

V. Effective Date

The Administrative Procedure Act, 5 U.S.C. 553(d) (1982), requires that a rule become effective 30 days after publication in the **Federal Register** unless the agency has good cause for making it effective earlier. This rule allows producers to use more recent data when calculating certain allowances for calendar year 1985 and each year thereafter. Accordingly, the Commission believes that good cause exists to make this rule effective on January 1, 1985.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive prices.

In consideration of the foregoing, the Commission amends Part 271, Subchapter H, Chapter 1, Title 18 *Code of Federal Regulations* as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. The authority citation for Part 271 reads as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.

2. Section 271.1104(d)(3)(A) is revised to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(d) * * *

(3) * * *

(A) The average annual cost of service is to be computed on the basis of the following:

(*1*) Operation and maintenance expenses developed for the year 1985 and each calendar year thereafter on the basis of actual expenses incurred in the last two calendar years, as available, and estimates of future expenses;

(*2*) An average annual net plant investment developed for the year 1985 and each calendar year thereafter using the amount of undepreciated investment as of January 1, 1981, for facilities in operation on that date, or such later date as the facility becomes operational, and depreciating the investment, using the amount of depreciation booked annually for the particular facility or for that class of investment, whichever method is used by the company;

(*3*) An average annual depreciation expense for the year 1985 and each calendar year thereafter computed from the annual amounts used to depreciate the plant investment; and

(*4*) After tax earnings at an amount no greater than 15.0 percent times the average annual net plant investment for the year 1985 and each calendar year thereafter, with taxes computed using the debt/equity ratios of the company's overall capital structure unless it can be demonstrated that the facility was financed by a particular source of capital, in which case taxes should be computed consistent with the particular financing arrangement used.

(*5*) Taxes other than income taxes for the year 1985 and each calendar year thereafter on the basis of actual taxes paid in the last two years, as available and estimates of future taxes.

* * * * *

[FR Doc. 84–33261 Filed 12–20–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS AUGUSTA (SSN 710) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: November 29, 1984.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400. Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS AUGUSTA (SSN 710) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), requiring that the stern light show an unbroken light over an arc of the horizon of 135 degrees and be so fixed as to show the light 67.5 degrees from right aft on each side of the vessel; Annex I, section 2(a)(ii), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the locations of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS AUGUSTA (SSN 710) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of §706.3 are equally applicable to USS AUGUSTA (SSN 710).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

§ 706.2 [Amended]

1. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i), Annex I
. . .	. . .	. . .
USS AUGUSTA	SSN 710	3.5
. . .	. . .	. . .

2. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Side lights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
USS AUGUSTA	SSN 710			209°	4.2	6.1	3.4	1.7 below.

Authority: Executive Order 11964; 33 U.S.C. 1605.

Dated: November 29, 1984.

John Lehman,

Secretary of the Navy.

[FR Doc. 84–33212 Filed 12–20–84; 8:45 am]

BILLING CODE 3810–AE–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

Pesticide Programs; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiophanate-Methyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide thiophanate-methyl, its oxygen analog, and its benzimidazole-containing metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested in a petition submitted by Pennwalt Corp.

EFFECTIVE DATE: Effective on December 21, 1984.

ADDRESS: Written objections identified by the document number (PP 2F2729, 3F2908/R724] may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the **Federal Register** cited below, which announced that the Pennwalt Corp., Agrochemicals Division, Three Parkway, Philadelphia, PA 19102, had submitted pesticide petitions (PP) as follows to the Agency proposing to amend 40 CFR 180.371 by establishing tolerances for the combined residues of the fungicide thiophanate-methyl (dimethyl[(1,2-phenylene)bis (iminocarbonothioyl)]bis [carbamate]), its oxygen analog dimethyl-4,4'-*o*-phenylenebis (allophanate), and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on certain raw agricultural commodities.

1. *PP 2F2729.* 49 FR 30563, August 25, 1982. Proposed tolerances for cucumbers, melons, pumpkins, and squash at 1.0 part per million (ppm); rice at 5.0 ppm; fresh grapes at 10 ppm; and rice straw at 15 ppm. Mobay subsequently withdrew the proposed tolerances for fresh grapes, rice, and rice straw.

2. *PP 3F2908.* 48 FR 32078, July 13, 1983. Proposed tolerances for onions (green and dry) at 3.0 ppm; wheat grain at 0.05 ppm; and wheat straw and wheat hay at 0.01 ppm.

There were no comments received in response to the notices of filing.

The scientific data considered in support of the tolerances include the following studies:

1. A 2-year rat oncogenic/feeding study (negative for oncogenic effects under the conditions of the study at all doses: 0, 0.5, 2.0, 8, and 32 milligrams per kilogram of body weight per day (mg/kg bw/day)). This study had a no-observed-effect-level (NOEL) of 8 mg/kg bw/day. The observed effects were growth retardation, spermatogenesis, and histological evidence of hyperthyroidism.

2. A 2-year mouse oncogenic study (negative for oncogenic effects under the conditions of the study at all doses: 0, 1.1, 5.7, 28.6, and 142.9 mg/kg bw/day).

3. A 2-year dog feeding study with a NOEL of 10 mg/kg bw/day).

4. A six-litter rat reproduction study (NOEL of 8 mg/kg bw/day).

5. A mouse teratology study (negative at 1,000 mg/kg, the highest dose tested).

6. A rat mutagenic study (negative at 1,000 mg/kg, no chromosomal aberrations in somatic and spermatogonial cells).

7. Dominant-lethal study in mice (negative at 50 mg/kg).

A dietary teratology study in the rat is currently lacking and is considered necessary for final determination of risk. Pennwalt has agreed to undertake such a study. The study is presently underway and will be submitted to the Agency in January, 1985. The teratogenic risks associated with these tolerances, as well as the established tolerances and currently registered uses, will be reevaluated in the registration standard. The registration standard for thiophanate-methyl is scheduled to be completed in May 1985.

Based on the rat feeding study, the NOEL is 8.0 mg/kg bw/day. Using a 100–fold safety factor, the allowable daily intake (ADI) is 0.08 mg/kg bw/day and the maximum permissible intake (MPI) is 4.8 mg/day for a 60–kg person. Currently established tolerances and these newly added tolerances result in a maximum theoretical exposure of 1.5490 mg/day for a 60–kg person and utilize 32.27 percent of the ADI. Tolerances have previously been established for residues of thiophanate-methyl in or on

a variety of raw agricultural commodities, ranging from 0.2 to 15 ppm (40 CFR 180.371).

The residue data submitted to support the tolerance in or on wheat is reflective of the use pattern only for the states of Oregon and Washington. As such, the use of thiophanate-methyl is limited to the control of *Pseudocercosporella* sp. disease (Foot Rot or Eye Spot) on wheat grown only in the Pacific North West states of Washington, Idaho, and Oregon. The approval of the registration of thiophanate-methyl for this use under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended will be conditional under section 3(c)(7). The conditionality will, in part, consist of the submission of additional residue data reflective of this use pattern for the other wheat growing regions within the United States. The data must be submitted by the registrant within 6 months of the issuance of the registration.

An adequate analytical method for thiophanate-methyl, ultraviolet spectrofluorometry, is available for enforcement purposes.

Thiophanate-methyl was subject of a rebuttable presumption against registration (RPAR) review, based on the mutagenic potential of its metabolite, methyl benzimidazole carbamate (MBC). The Agency determined that the presumption was rebutted on the basis of low exposure potential (40 CFR 162.11(a)(4)(ii)), and that the current use patterns of thiophanate-methyl do not pose unreasonable adverse effect on the environment. Subsequent to this finding, the data have been made available indicating that the (MBC) metabolite of thiophanate-methyl is oncogenic. A reevaluation of the presently registered and proposed uses of thiophanate-methyl in light of the potential effect has been completed. The Agency position concerning the RPAR issues with thiophanate-methyl was published in the Notice of Determination Concluding the Rebuttable Presumption Against Registration for Thiophanate-Methyl. The results of that evaluation are available through the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. Tel: (703–487–4650). The document identification number is PB83–148189.

Based on the above information, the Agency has determined that the fungicide is considered useful for the purposes for which the tolerances are sought and that establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 5, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.371 is amended by adding, and alphabetically inserting, the following raw agricultural commodities, to read as follows:

§ 180.371 Thiophanate-methyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cucumbers	1.0
* * * * *	
Melons	1.0
* * * * *	
Onion, dry	3.00
Onion, green	3.00
* * * * *	
Pumpkins	1.0
* * * * *	
Squash	1.0
* * * * *	
Wheat, grain	0.05
Wheat, hay	0.10
Wheat, straw	0.10

[FR Doc. 84–33118 Filed 12–20–84; 8:45 am]

BILLING CODE 6560–50–M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 617

Nondiscrimination on the Basis of Age in Program or Activities Receiving Federal Financial Assistance From NSF

AGENCY: National Science Foundation.

ACTION: Final rules.

SUMMARY: These regulations carry out the responsibilities of the National Science Foundation under the Age Discrimination Act of 1975, and the Department of Health and Human Services government-wide regulations at 45 CFR, Part 90 (44 FR No. 114, Part III; June 12, 1979).

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions which permit, under limited circumstances, continued use of age distinctions or factors other than age which may have a disproportionate effect on the basis of age. The Act applies to persons of all ages. These regulations apply to programs and activities which receive financial assistance from NSF.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Dimas M. Chavez, Acting Director, Office of Equal Opportunity, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Telephone: (202) 357–9819 (Voice) (This is not a toll-free No.), (202) 357–9867 (TDD).

SUPPLEMENTARY INFORMATION: These regulations are designed to comply with the requirements established in the government-wide regulations issued by DHHS. They consist of the main body of the regulations and an Appendix listing NSF programs in which age distinctions are made.

To avoid unnecessary duplication, the main part of the regulation is modeled after regulations 45 CFR, Part 91, dated December 28, 1982 of the Department of Health, and Human Services to implement its responsibilities as an agency (as opposed to its responsibility for government-wide regulations). NSF has made several changes. The main

substantive changes that might affect recipients of Federal financial assistance from NSF are as follow:

1. Sections 91.31 and 91.32 of the proposed HHS regulations have been combined into a single § 617.4 in the NSF regulations and specific language that NSF will include in each award is shown.

2. In anticipation that many NSF grantees will prepare self-evaluations in response to HHS or other agency requirements, we have added language in our § 617.5(a) (which is otherwise equivalent to HHS 45 CFR 91.33) to clarify that in such cases another self-evaluation would not have to be undertaken specifically for NSF.

3. We have written separate §§ 617.7 and 617.8 on compliance reviews and pre-award reviews. 45 CFR 91.41 of the HHS regulations combines these into one section.

4. Our § 617.9 is based on 45 CFR 91.42 of the HHS proposed regulations. However, we have included more specific procedures concerning insufficient complaints than are found in the HHS proposed regulations.

5. Section 617.10(b) of our regulations differs somewhat from the equivalent HHS § 91.43(b), although we believe the substance is similar.

6. The most substantial differences are between our § 617.12 and HHS's 45 CFR 91.46. We have broadened paragraphs (a), (b), and (c) to cover both termination and refusal to make future awards which are the two specific remedies mentioned in the Act (42 U.S.C. 6104). We have split subsection (c) of the HHS 45 CFR 91.46 into two subsections (d), and (e), which we believe more accurately reflect the statutory requirements. We have no provision for deferral of assistance.

NSF published proposed rules for comment at 44 FR 57127 (October 4, 1979). No public comments were received.

The Department of Health and Human Services (HHS) held up final publication of the rules pending the results of litigation challenging certain portions of the HHS regulation. Since those aspects of the litigation have now been dismissed, HHS released these rules for further processing and publication on July 13, 1984.

In releasing these regulations, HHS required that NSF add one new section on *"Alternate Funds Disbursal Procedures."* NSF had decided not to include such procedures initially because NSF operates discretionary grant programs and does not have any "formula grant" programs, thus NSF would appear to have ample discretion independent of the Age Discrimination Act. Although NSF felt there was no need to include such a procedure, it has now been added at § 617.12(f).

This is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

List of Subjects in 45 CFR Part 617

Age, civil rights.

Accordingly, the National Science Foundation adds a new Part 617 Title 45 of the Code of Federal Regulations.

Dated: December 13, 1984.

Dimas M. Chavez,

Acting Director, Office of Equal Opportunity.

PART 617—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM NSF

Sec.

617.1 Purpose.
617.2 Definitions.
617.3 Standards.
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617.5 Self-evaluation.
617.6 Information requirements.
617.7 Compliance reviews.
617.8 Pre-award reviews.
617.9 Complaints.
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617.11 Investigation.
617.12 Compliance procedure.
617.13 Hearings, decisions, post-termination proceedings.
617.14 Remedial action by recipients.
617.15 Exhaustion of administrative remedies.
617.16 Prohibition against intimidation or retaliation.
Appendix I—List of age distinctions provided in Federal statutes or regulations affecting Federal financial assistance administered by NSF

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.*; 45 CFR, Part 90.

§ 617.1 Purpose.

This part prescribes NSF's policies and procedures under the Age Discrimination Act of 1975 and the Department of Health and Human Services government-wide age discrimination regulations at 45 CFR Part 90. The Act and Part 90 prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and Part 90 permit federally assisted programs and activities and recipients of Federal funds to continue to use age distinctions and factors other than age which meet the requirements of the Act and Part 90.

§ 617.2 Definitions.

The following terms used in this part are defined in Part 90:

Act
Action
Age
Age distinction
Age-related term
Agency
Federal financial assistance
Recipient (including subrecipients)
United States

§ 617.3 Standards.

Standards for determining whether an age distinction or age-related term is prohibited are set out in Part 90 of this Title 45. See also Appendix I to this part.

§ 617.4 General duties of recipients.

Each recipient of Federal financial assistance from NSF shall comply with the Act, Part 90, and this Part. Each NSF award of Federal financial assistance shall contain the following provision:

Compliance With Age Discrimination Act

The recipient agrees to comply with the Age Discrimination Act of 1975 as implemented by the Department of Health and Human Services regulations at 45 CFR Part 90 and the regulations of the Foundation at 45 CFR Part 617. In the event the recipient passes on NSF financial assistance to subrecipients, this provision shall apply to the subrecipients, and the instrument under which the Federal financial assistance is passed to the subrecipient shall contain a provision identical to this provision.

§ 617.5 Self-evaluation.

(a) Each recipient (including subrecipients) employing the equivalent of fifteen or more full-time employees shall complete a written self-evaluation of its compliance under this Part within 18 months of the effective date of these regulations, unless a similar evaluation has been completed for another agency.

(b) In its self-evaluation, each recipient shall identify all age distinctions it uses and justify each age distinction it imposes on the program or activity receiving Federal financial assistance from NSF.

(c) Each recipient shall take corrective action whenever a self-evaluation indicates a violation of the Act.

(d) Each recipient shall make the self-evaluation available on request to NSF and the public for three years after its completion.

§ 617.6 Information requirements.

Each recipient shall:

(a) Make available upon request to NSF information necessary to determine whether the recipient is complying with the Act.

(b) Permit reasonable access by NSF or its designee to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether a recipient is complying with the Act.

§ 617.7 Compliance reviews.

(a) NSF may conduct compliance reviews of recipients that will permit it to investigate and correct violations of the Act. NSF may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of the Act has occurred.

(b) If a compliance review indicates a violation of the Act, NSF will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, NSF may arrange for enforcement as described in § 617.12.

§ 617.8 Pre-award reviews.

NSF reserves the right to conduct pre-award reviews of applicants for Federal financial assistance from NSF in cases where the NSF has substantial reason to believe that a potential recipient who is not then a recipient of other NSF financial assistance under the same program or activities may engage in practices under that program or activity that would violate the Act. However, the results of any such review shall not constitute a basis for NSF refusal to grant financial assistance to the applicant under that program or activity unless the procedural requirements of the Act (42 U.S.C. 6104) and §§ 617.12 and 617.13 of this part have been followed.

§ 617.9 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with NSF, alleging discrimination prohibited by the Act. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, NSF may extend this time limit.

(b) NSF will accept as a sufficient complaint, any written statement which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant. If an insufficient complaint is amended within 10 working days after notice by NSF to the complainant of the deficiency, NSF will consider the amended complaint as filed on the date the original insufficient complaint was filed for purposes of determining if it was timely filed. However, all other time requirements established by the Act and this part shall run from the date the amended complaint was filed.

(c) On receipt of any complaint NSF shall promptly send written acknowledgement to the complainant, and a copy of the complaint to the recipient. In addition, NSF shall send either copies of this part or other pertinent information describing the rights and obligations of the parties.

(d) NSF will return to the complainant any complaint outside the coverage of this part, and will state why it is outside the coverage of this part.

§ 617.10 Mediation.

(a) NSF will refer to the Federal Mediation and Conciliation Service all complaints that fall within the jurisdiction of this part and contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or for a mediator to make an informed judgement that an agreement is not possible. NSF will take no further administrative action on any complaint if the complainant refuses to participate in the mediation process.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to NSF. NSF shall take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement, in which case the other party may request that the complaint be reopened.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the Federal Mediation and Conciliation Service.

(e) NSF will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapse from the time NSF receives a sufficient complaint: *or*

(2) Before the end of the 60 day period, an agreement is reached; *or*

(3) Before the end of the 60 day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to NSF.

§ 617.11 Investigation.

(a) *Informal investigation.* (1) NSF will investigate complaints that are unresolved after mediation or are reopened because of violation of a mediation agreement.

(2) As part of the initial investigation, NSF will use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the facts, and, if possible, will settle the complaint on terms that are agreeable to the parties. NSF may seek the assistance of any involved State program agency.

(3) NSF will put any agreement in writing and have it signed by the parties and an authorized official of NSF.

(4) A settlement shall not affect other enforcement efforts of NSF, including compliance reviews, or individual complaints that involve the recipient.

(5) A settlement is not a finding of discrimination against the recipient.

(b) *Formal investigation.* If NSF cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of the Act, NSF will try to obtain voluntary compliance. If NSF cannot obtain voluntary compliance, it will begin enforcement as described in § 617.12. If the investigation does not indicate a violation of the Act, NSF will issue a written determination in favor of the recipient.

§ 617.12 Compliance procedure.

(a) NSF may enforce this Part by either termination of a recipient's financial asistance from NSF under the program or activity involved where the recipient has violated the Act or this Part or refusal to grant further financial assistance under the program or activity involved where the recipient has violated the Act or this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases settled in the mediation process or before a hearing will not involve termination of a recipient's Federal financial assistance from NSF.

(b) NSF may also enforce this part by any other means authorized by law, including but not limited to:

(1) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations by this part.

(2) Use of any requirement of or referral to any Federal, State, or local government agency that will have the

effect of correcting a violation of the Act or this part.

(c) NSF will limit any termination or refusal to grant further financial assistance to the particular recipient and the particular program found to be in violation of the Act. NSF will not base any part of a termination or refusal on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance for NSF.

(d) NSF will not begin any hearing under paragraph (a) until the Director has advised the recipient of its failure to comply with this Part and has determined that voluntary compliance cannot be obtained.

(e) NSF will not terminate or refuse to grant Federal financial assistance until thirty days have elapsed after the Director has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Director will file a report whenever any action is taken under paragraph (f).

(f) *Alternate Funds Disbursal Procedures.* (1) When NSF withholds funds from a recipient under these regulations, the Secretary may disburse the withheld funds directly to an alternate recipient: any public or non-profit private organization or agency, or State or political subdivision of the State.

(2) The Director will require any alternate recipient to demonstrate:

(i) The ability to comply with these regulations; and

(ii) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 617.13 Hearings, decisions, post-termination proceedings.

Procedures prescribed in 45 CFR 611.9 and 611.10 for NSF enforcement of Title VI of the Civil Rights Act of 1964 shall apply also for NSF enforcement of this part. At the conclusion of any action taken under § 617.12, NSF, shall remind both parties of the right to judicial review established by 42 U.S.C. 6105.

§ 617.14 Remedial action by recipients.

Where the Director finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action the Director may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, the Director may require both recipients to take remedial action.

§ 617.15 Exhaustion of administrative remedies.

(a) A complainant may file a civil action after exhausting administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed a sufficient complaint and NSF has made no finding with regard to the complaint; or

(2) NSF issues any finding in favor of the recipient.

(b) If NSF fails to make a finding within 180 days or issues a finding in favor of the recipient, NSF will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief under 42 U.S.C. 6104; and

(3) Inform the complainant that under 42 U.S.C. 6104:

(i) The complainant may bring a civil action only in a United States District court for the district in which the recipient is located or transacts business;

(ii) A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) Before commencing the action the complainant shall give 30 days notice by registered mail to the Director, the Attorney General of the United States, and the recipient;

(iv) The notice must state the alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) The complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

§ 617.16 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against a person who:

(a) Attempts to assert a right protected by the Act, or

(b) Cooperates in any mediation, investigation, hearing or other part of NSF's investigation, conciliation, and enforcement process.

Appendix I to 45 CFR Part 617—List of Age Distinctions Provided in Federal Statutes or Regulations Affecting Federal Financial Assistance Administered by NSF

I. Section 6 of Pub. L. 94–86, 42 U.S.C. 1881a:

This statute authorizes the Foundation to establish the Alan T. Waterman Award to recognize and encourage the work of "younger" scientists. Under NSF procedures awards have been limited to persons 35 years of age or under.

[FR Doc. 84–33100 Filed 12–20–84; 8:45 am]
BILLING CODE 7555–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 340

Priority Use and Allocation of Shipping Services, Containers, and Port Facilities and Services for National Security and National Defense Related Operations

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This final regulation establishes procedures for United States defense agencies to request priority use and allocation of commercial shipping and port services and facilities under commercial terms in connection with the imminent or actual deployment of the Armed Forces of the United States. In the case of imminent or actual deployment, emergency conditions would require the rapid movement of large amounts of military cargo and personnel. Emergency conditions would necessitate the use of additional commercial shipping and port services and facilities in addition to the services and facilities normally used to move military cargo and personnel in peacetime. In consideration of national security interests in such a situation, this regulation allows a defense agency to request that the Maritime Administrator direct vessel operators, container suppliers, and port authorities to give priority use or allocation of service and equipment to the defense agency on a commercial basis when these resources are not obtainable through established transportation procurement practices.

EFFECTIVE DATE: January 22, 1985.

FOR FURTHER INFORMATION CONTACT: Frank B. Case, Chief, Division of National Security Plans, Maritime Administration, Department of

Transportation, Room P1–1303, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone (202) 382–6100.

SUPPLEMENTARY INFORMATION: This final regulation establishes procedures for priority use and allocation of existing commercial services and facilities by defense agencies, under commercial terms in connection with deployment of the Armed Forces of the United States, under authority of Title I of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*). Title I of the Defense Production Act (DPA), 1950, as amended, authorizes the President to require that performance under contracts or orders (other than contracts of employment) which the President deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order. The DPA also authorizes the President to allocate materials and facilities in such manner, upon such conditions, and to such extent as the President deems necessary to promote the national defense.

Executive Order 11490, as amended (34 FR 17567), Part 13 assigns emergency preparedness functions to the Secretary of Transportation, and 49 CFR 1.45 further delegates such authority from the Secretary to Administrators. This regulation specifies the procedures by which the Maritime Administrator, in accordance with the Secretarial review as defined in § 340.2 of this regulation, may issue orders regarding allocation and priority use of shipping services and facilities in times of imminent or actual deployment of the Armed Forces. The procedures in this regulation will permit national defense requirements to be met with minimum interference with commercial operations, and will minimize the need to requisition property to meet defense requirements in crisis and war.

In particular, the procedures will eliminate the need for standby marine terminal operating contracts, under regulations now contained in 46 CFR Part 347. Instead of using such contracts, defense agencies may invoke the procedures in this regulation to require vessels and port operators and authorities to provide commercial services and facilities to the defense agencies in cases of imminent or actual deployment of the Armed Forces. This regulation does not preclude the possibility of defense agencies using established transportation procurement practices with vessels and port authorities and invoking these procedures if agreements cannot be reached. This new regulation does not affect the Federal Port Controller contracts provided for by 46 CFR Part 346.

The Department of Defense has concurred in this Final Rulemaking. The Director of the Federal Emergency Management Agency has concurred in this Final Rulemaking.

Background

The NPRM was published at 47 FR 38157–38160 on August 30, 1982. The comment period was extended to November 19, 1982, at the request of interested parties. MARAD received comments from 16 interested parties, including affected companies, professional trade and industry associations, public interest firms and other government agencies. The following summarizes the comments, suggestions and actions taken.

Section-by-Section Analysis of Comments

Application to existing commercial services. Several commenters argued that the proposed rule would result in the requisitioning of property. The final rule clarifies the fact that the rule applies to use of existing commercial services and facilities, under commercial terms, and does not contemplate the requisitioning of property in any manner (§ 340.1).

Responsibility for designating resources to meet defense requirements. The proposed rule provided that port authorities would identify facilities to meet defense requirements for priority use of port services. Commenters objected to asumption of that burden. The final rule transfers the burden to the Maritime Administrator (§ 340.3(d)).

Trigger mechanism. Three commenters requested clarification of the circumstances under which the rule would be used. The final rule provides that the procedures will be used only in connection with the imminent or actual deployment of the Armed Forces of the United States. "Imminent" means that the President has directed deployment or preparation for deployment (§ 340.3(a)(1)).

Determination of necessity. One commenter objected that the Administrator's determination of the necessity for issuance of a priority or allocation order would be an inappropriate review of a defense agency's operational requirements. Before the authority of the Defense Production Act is used, the Administrator must make a formal determination that priority and allocation requirements exist which cannot be satisfied by more suitable means and that action under this regulation will satisfy such requirements. That determination does not constitute a challenge to the defense agency's ability to determine its operational requirements. The final rule retains the provision for the Administrator's formal determination of necessity (§ 340.3(d)).

Coast Guard interest. At the request of the Commandant of the Coast Guard, the final rule provides for coordination with the Coast Guard on actions which affect Coast Guard functions (§ 340.3 (d), (e), (f), and (g)).

Planning orders. The procedure for issuance of planning orders has been clarified. The final rule specifies that no action will be taken on planning orders until allocation or priority orders are issued when the services or facilities are actually required (§ 340.3(g)).

Compensation for consequential damages. Three commenters proposed that the rule provide for indemnification of losses that might be sustained by reason of the preemption of facilities or services, such as losses or revenues and costs of defending suits against owners or lessors of facilities arising out of the preemption of resources for defense use. The suggestion of the commenters was not adopted because the DPA does not authorize payment of consequential damages. Furthermore, the extent of such possible damages cannot be determined. The final rule provides for payment of such costs as may be agreed upon between the defense agency and the provider of service at the time service is required.

Container positioning costs. One commenter found no provision for reimbursing carriers when they are required to position containers on another coastal range and suggested such a term be included in the NAO. Such costs would be paid by the requiring defense agency under commercial tariffs or existing contracts (§ 340.4 (h) and (i)(d), and 340.5 (a)(3) and (b)(3)). A specific provision in the NAO would be unnecessary.

Compliance. One commenter suggested that the final rule should specify the consequences of non-compliance and the procedures by which MARAD will enforce it. The commenter noted that while the DPA provides criminal penalties for the willful violation of implementing regulations, the proposed regulation did not indicate how compliance would be affected. The commenter further noted that because priority and allocation orders would be disruptive to an affected entity's operations, non-compliance sanctions should be considered. The final rule contains a

compliance section which follows the DPA in stating that willful violators, upon conviction, shall be fined not more than $10,000, or imprisoned for not more than one year, or both (§ 340.9).

Replacement of lost or destroyed equipment. A commenter asked for an additional provision requiring prompt payment of full replacement cost for equipment lost or destroyed while being used by a defense agency. Inclusion of such a provision in the rule was considered unnecessary because the intent of the rule is that equipment would be acquired under tariff or contract which would define the user's liability for damage or loss of equipment. Paragraph 204b(3) of the Military Sealift Command Container Agreement is an example of such a contract.

Definition of vessel and vessel operator. The definition of "vessel" was added, and the definition of "vessel operator" was expanded in order to clarify the use of these terms. The definition of vessel operator now explicitly includes overseas vessels, and foreign-flag and non-citizen controlled vessels made available to the United States. The definition also includes owners of vessels as well as operators. In conjunction with the definition of vessel operator, vessel is defined to be a vessel employed in commercial service in the overseas, coastwise, intercoastal, inland waterways or Great Lakes shipping trades (§ 340.2 (s), (t)).

Definition of port authority. The suggestion of one commenter that this definition be clarified to include those in control of facilities, such as lessees and licensees, has been adopted (§ 340.2(m)).

Consideration of local priorities. One commenter highlighted the need for special consideration of areas uniquely dependent upon waterborne commerce (e.g., Hawaii), while recognizing the national defense basis for the rule. Such consideration will be a necessary and normal feature of the Administration's determination in the context of minimum disruption to commercial activities, therefore, no change in the rule, as proposed, is required (§ 340.3(d)).

Commercial port development. Two commenters proposed that the defense requirement addressed by the rule should be the basis for Federal support of commercial port developments, e.g., funding for deepening of channels. The proposal was not adopted in the final rule because it is beyond the scope of the authority under which the rule is issued.

E.O. 12291, Statutory Requirement and DOT Procedure

The provisions of this rulemaking are necessary for timely support of military and defense-related operations and there is no alternative found that would be suitable to accomplish this objective. This final rule is considered to be non-major under E.O. 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). Despite the fact that E.O. 12291 exempts from OMB review and clearance regulations that concern a military function of the United States, this final rule was submitted for OMB review.

The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The rule principally affects private or government entities in the shipping, port management, and warehousing and stevedoring businesses, which usually have annual receipts far in excess of the upper limit for qualification as a small business entity under existing criteria. Accordingly, the Maritime Administration certifies that the rulemaking will not exert a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking includes no new reporting requirement for the collection of information within the scope of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 46 CFR Part 340

Maritime carriers, national defense, containers, harbors.

For reasons set out in the preamble Part 340 is added to Title 46, Code of Federal Regulations:

PART 340—PRIORITY USE AND ALLOCATION OF SHIPPING SERVICES, CONTAINERS, AND PORT FACILITIES AND SERVICES FOR NATIONAL SECURITY AND NATIONAL DEFENSE RELATED OPERATIONS

Sec.

340.1 Scope.
340.2 Definitions.
340.3 General provisions.
340.4 Shipping services.
340.5 Containers.
340.6 Port facilities and services.
340.7 Application to contractors and subcontractors.
340.8 Priorities for materials and production.
340.9 Compliance.

Authority. Defense Production act of 1950, (DPA) as amended (50 U.S.C. App. 2061 *et seq.*); Executive Order 10480, as amended (18 FR 4939); Executive Order 11490, as amended (34 FR 17567); 44 CFR Part 322; 49 CFR 1.45; Department of Transportation Orders 1100.60, as amended; 1900.8 and 1900.7C.

§ 340.1 Scope.

This Part establishes procedures for assigning priority for use by defense agencies, on commercial terms, of commercial shipping services, containers, and port facilities and services and for allocating vessels employed in commercial shipping services, containers, and port facilities and services for exclusive use by defense agencies (as defined in § 340.2), at any time where appropriate under provision of Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2061 *et seq.*) as determined by the Secretary of Transportation. The procedures will provide the means to require vessel and port operators to provide defense agencies with existing commercial services and facilities not obtainable through established transportation procurement procedures. Thus the procedures will minimize interference with commercial operations and ensure rapid response to defense needs in times of crisis or war.

§ 340.2 Definitions.

As used in this regulation:

(a) "Administrator" means the Maritime Administrator, Department of Transportation, who is, ex officio, the Director, National Shipping Authority, within the Maritime Administration (MARAD). Pursuant to 49 CFR 1.45(a)(5), the Maritime Administrator is authorized to carry out emergency preparedness functions assigned to the Secretary by Executive Order 11490, as amended (34 FR 17567, October 30, 1969).

(b) "Container" means any type of container for intermodal surface movement that is 20 feet in length or longer, 8 feet wide, and of any height, with International Standards Organization standard fittings.

(c) "Container service means the intermodel movement, which includes an ocean movement leg, of goods in containers.

(d) "Container service operator" means a vessel operator (defined in § 340.2(t)) that provides containerized ocean shipping service.

(e) "Container supplier" means a U.S.-citizen controlled (pursuant to 46 U.S.C. § 802) company which manufactures containers, is a container service operator, or is in the business of leasing containers.

(f) "Defense agency" means the Department of Defense, or any other department or agency of the Federal Government as determined by the

Secretary of Transportation, for the purposes of this regulation.

(g) "FEMA" means the Federal Emergency Management Agency.

(h) "NAO" means the NSA Allocation Order, which is an order allocating the exclusive use of a vessel employed in commercial shipping service, a container or a port faciltiy for the purposes of providing its services to a defense agency for a specified period.

(i) "National defense programs" means programs for military assistance to any foreign nation, stockpiling, space, and directly related activity.

(j) "NSA" means the National Shipping Authority, which is the emergency shipping operations activity of the Department of Transportation (MARAD).

(k) "NSPO" means an NSA Service Priority Order, which is an order directing that priority of service be given to the movement of cargoes of a defense agency.

(l) "Planning order" means a notification of tentative arrangements to meet anticipated defense agency requirements, issued by NAO or NSPO format, for planning purposes only.

(m) "Port authority" means any state, municipal, or private agency, or firm that (1) owns port facilities (2) manages such facilities for common-user commercial shipping services under lease from an owner; (3) owns or operates a proprietary port facility or terminal; and (4) otherwise leases or licenses and manages a port facility.

(n) "Port facilities and services" means (1) all port facilities, for coastwise, intercoastal, inland water ways, and Great Lakes shipping and overseas shipping, including, but not limited to wharves, piers, sheds, warehouses, yards, docks, control towers, container equipment, maintenance buildings, container freight stations and port equipment, including harbor craft, cranes and straddle carriers; and (2) port services normally used in accomplishing the transfer or interchange of cargo and passengers between vessels and other modes of transportation, or in connection therewith.

(o) "Secretary" means the Secretary of Transportation or his or her designees to whom emergency authorities under the Defense Production Act of 1950 have been delegated, i.e., the Director of Office of Emergency Transportation or the Departmental Crisis Coordinator.

(p) "Secretarial Review" means the process by which the Secetary or his or her designee(s) exercises review, coordination, and control over departmental emergency preparedness programs and/or matters.

(q) "Shipper" means a civilian or Government agency that owns (or is responsible to the owner for) goods transported in waterborne service.

(r) "Shipping service" means a commercial service for waterborne movement of passengers or cargo in the overseas, coastwise, intercoastal, inland waterways or Great Lakes shipping trades.

(s) "Vessel" means a vessel employed in commercial service for waterborne movement of passengers or cargo in the overseas, coastwise, intercoastal, inland waterways or Great Lakes shipping trades, or any portion of the cargo-carrying capacity of such vessel.

(t) "Vessel operator" means a company owning and/or operating, to and from any U.S. port, an ocean-going overseas, coastwise, intercoastal, inland waterways or Great Lakes vessel that is U.S.-flag, or foreign-flag and U.S.-citizen controlled, (pursuant to 46 U.S.C. 802), or foreign-flag and non-citizen controlled that is made available to the United States (as described in § 340.3(j)).

§340.3 General provisions.

(a) The provisions of this rule apply pursuant to authority granted to the President by Title I, Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) that authority having been delegated to the Secretary of Transportation with respect to civil transportation services, by § 322.3(b) of Title 44, Code of Federal Regulations. In order to give priority to performance under contracts deemed necessary or appropriate to promote the national defense and to allocate materials and facilities in such manner, upon such conditions and to such extent as necessary or appropriate to promote the national defense, the following procedures shall be applicable:

(1) In connection with deployment of the Armed Forces of the United States, or other requirements of the nation's defense, a defense agency (as defined in § 340.2(f) above) may request priority use or allocation of vessels employed in commercial shipping services, containers, or port facilities and services;

(2) The Secretary may authorize initiation of priority and allocation authority usage in accordance with administrative and statutory authorities;

(3) The Administrator, on approval by the Secretary of initiation of priority and allocation authority usage under this regulation and in conformance with national program priorities, may direct owners and/or operators of vessels, containers or port facilities to give priority usage to the defense agency or may allocate vessels, containers or facilities for the defense agency's use during specified periods.

(b) A defense agency may transmit requests for assistance or allocation of vessels, containers and port facilities and services to the Secretary by letter, memorandum, or electrical message.

(c) Justification for requested priorities or allocations may include references to military operations plans. When classified, justifications may be provided separately by correspondence or staff coordination. NSPOs and NAOs will not include classified information.

(d) The Administrator shall determine, before issuing an NSPO or NAO, that the action is necessary to meet the requirements of the national defense (as determined by the defense agency) and conforms to Secretarial guidance for coordinating the Department's crisis response, and that the proposed approach is the most effective way to do so. The Administrator, in conjunction with the defense agency, shall coordinate with vessel operators, container suppliers, port authorities and the Coast Guard to identify vessels, equipment and facilities to meet requirements covered by NSPOs and NAOs. The Administrator shall ensure that arrangements to provide defense support under NSPOs and NAOs satisfy the defense agency's requirements with minimum disruption to commercial activities.

(e) When resources are required for movement of hazardous or other special cargo, the Administrator shall ensure that the Commandant of the Coast Guard and the Captain of the Port and other concerned hazardous materials officials of the U.S. Department of Transportation, as required, are notified and that the views of all concerned agencies and interests are obtained and reflected in actions taken pursuant to this regulation. Any action taken pursuant to this regulation shall conform with existing regulations for the safe transportation of hazardous materials and or cargoes, subject to Department of Transportation exemptions.

(f) The Secretary shall notify FEMA of the intention to issue any directive granting priority for use or allocation of vessels, containers, or port facilities and services, and shall provide information copies of NSPOs and NAOs as required to the defense agency concerned, FEMA, the Interstate Commerce Commission and the Coast Guard.

(g) Defense agencies which foresee difficulty in meeting their needs for the vessels employed in commercial shipping services, containers or port facilities and services shall coordinate with MARAD, the Coast Guard, vessel

operators, container suppliers and port authorities concerned before the need arises. The Administrator, after Secretarial review, may issue planning orders for information and guidance of affected agencies confirming tentative arrangements to meet the defense agencies' needs. No action will be taken to give effect to those arrangements until NSPOs and NAOs are issued at the time the services, equipment, or facilities are required.

(h) Defense agencies shall pay for services covered by NSPOs and NAOs on the basis of commercial tariffs, or on the basis of contracts concluded between the operator interests and the defense agencies concerned, or on the basis of existing contracts where both parties so agree.

(i) Defense agencies shall be responsible for payment of costs arising from:

(1) Shifting ships to free berths for defense use;

(2) Discharging commercial cargo to free ships for defense use; and

(3) Such other costs as may be agreed between the defense agency and the provider of service.

(j) The provisions of this regulation shall apply to foreign vessels and containers only when and to the extent that such vessels and containers are available to the United States because of control by U.S. citizens (46 U.S.C. 802) or by provision of international agreements for use of shipping services and related resources for the common defense.

(k) Recipients of NSPOs and NAOs shall notify the Administrator, without undue delay, when they cannot comply or are experiencing difficulty in complying with the provisions of the Orders.

§ 340.4 Shipping services.

(a) When a defense agency requires shipping services not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The type of service required;

(ii) The route over which priority of service is required;

(iii) The period during which priority of service is required; and

(iv) Justification for priority use of the requested service.

(2) The Administrator, pursuant to the circumstances in § 340.4(a)(1), shall identify vessel operators that can provide the necessary service and issue NSPOs in coordination with the Secretary to those operators directing that priority be given to the movement and delivery of the defense agency's cargo and/or passengers by the type of service specified in the NSPO during the specified period.

(3) Each vessel operator in receipt of an NSPO shall:

(i) Give precedence to the cargoes of the defense agency in provision of equipment, loading, ocean transport and foreign delivery; and

(ii) Coordinate with other operators in receipt of NSPOs applicable to the same priority movement program to ensure movement of the defense agency's cargoes on first available sailings.

(b) When a defense agency has need for vessels employed in commercial service on a continuing basis for national defense operations for a specified period or for the duration of a defense emergency which they cannot obtain through established transportation procurement practices, the following procedures shall apply:

(1) The agency shall transmit to the Secretary, with a copy to the Administrator, a request specifying the kinds of services required, the arrangements under which the agency proposes that the services be acquired, managed and compensated, and justification for allocation of the required vessels.

(2) The Administrator, upon receiving guidance from the Secretary, shall identify vessel operators that can supply the requested services and issue NAOs to operators directing that specified vessels be made available for use of the defense agency for specified periods. As far as practicable, the economic impact will be balanced among operators.

(3) Each vessel operator in receipt of an NAO shall provide vessels in coordination with the defense agency as specified in the NAO.

§ 340.5 Containers.

(a) When a defense agency requires priority use of containers not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The route over which or the area in which priority use of containers is required;

(ii) The period during which priority use is required;

(iii) The approximate time-phased movement requirement in containers of specified sizes and types or in 20-foot equivalent units (TEU); and

(iv) Justification for priority use of containers.

(2) The Administrator pursuant to the circumstances in § 340.5(a)(1) shall:

(i) Identify container service operators capable of meeting the requirement; and

(ii) Issue NSPOs in coordination with the Secretary to those container service operators, directing that priority be given to supply of containers against the defense requirement.

(3) Each container service operator in receipt of an NSPO shall:

(i) Coordinate with the defense agency on schedules for spotting empty containers and for movement of containerized cargoes; and

(ii) Supply containers to the defense agency in accordance with the defense agency's scheduling needs or supply the first available containers if those needs cannot be met.

(b) When a defense agency requires the allocation of containers on a continuing basis for national defense operations, the following procedures shall apply:

(1) The agency shall transmit to the Secretary, with a copy to the Administrator, request specifying:

(i) The number of containers required by type;

(ii) The general terms and conditions under which the agency proposes to acquire the needed containers and compensate the owners or operators;

(iii) The expected duration of the lease, if the containers are to be leased;

(iv) The locations at which the agency will take possession of the containers and the required delivery schedule; and

(v) Justification for allocation of containers.

(2) The Administrator in coordination with the Secretary shall identify container suppliers that can supply the required containers, and shall provide, so far as practicable, for balancing the defense agency's requirement against other requirements for containers so as to minimize disruption of inventory distribution, and shall issue NAOs to suppliers, directing the allocation of specified numbers of containers by type for exclusive use of the defense agency for a specified period.

(3) Each container supplier in receipt of an NAO shall deliver the containers specified in the NAO to the defense agency at the places and times specified in the NAO or separately agreed upon with the defense agency, under terms and conditions agreed upon with the defense agency.

§ 340.6 Port facilities and services.

(a) When a defense agency requires priority use of port facilities and services not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The ports at which priority use of port facilities and services are required and the kinds of facilities and services required at each port;

(ii) The approximate scale and duration of the operation for which priority support is required; and

(iii) Justification for priority use of port facilities and services.

(2) The Administrator in coordination with the Secretary shall issue NSPOs to the port authorities concerned, directing that priority be given to the receipt, in transit handling, and outloading of the defense agency's cargo during a specified period and specifying the facilities and services required.

(3) Each port authority in receipt of an NSPO shall:

(i) Make such dispositions of commercial cargoes and ships loading or discharging commercial cargoes as may be necessary to accommodate priority movement of the defense agency's cargoes; and

(ii) Ensure receipt, in transit handling and outloading of the defense agency's cargoes as rapidly as possible.

(b) When a defense agency requires the allocation of port facilities for exclusive use of the agency on a continuing basis, the following procedures shall apply:

(1) The agency shall transmit a request to the Secretary, with a copy to the Administrator specifying:

(i) The ports at which the allocation of facilities is required and the kinds of facilities needed at each port;

(ii) The general terms and conditions under which the agency proposes to acquire the needed facilities and compensate the owners or leaseholders;

(iii) The periods during which the facilities will be required; and

(iv) Justification for allocation of facilities.

(2) The Administrator in coordination with the Secretary shall identify facilities that meet the defense agency's needs, and shall issue to each concerned port authority and NAO directing the allocation of specified facilities for exclusive use of the defense agency during a specified period.

(3) Each port authority in receipt of an NAO shall make the specified facilities available to the defense agency for the specified period under terms and conditions agreed upon with the defense agency.

§ 340.7 Application to contractors and subcontractors.

(a) Vessel operators, port authorities and container suppliers requiring priorities for production services in order to comply with NSPOs and NAOs must submit their priority requirements for such services to the Maritime Administrator for action in accordance with Departmental policies governing supporting resource support.

(b) Vessel operators, port authorities requiring priorities for fuel in order to comply with NSPOs and NAOs must submit their priority requirements for fuel in accordance with Departmental policies governing supporting resources.

§ 340.8 Priorities for materials and production.

(a) Vessel operators, port authorities and container suppliers may request priority ratings to obtain production materials and services necessary to comply with orders issued under this regulation. Requests for priority rating authority must be made through and sponsored by the Maritime Administrator, in accordance with the Defense Priorities and Allocation System (15 CFR Part 330 *et seq.* (49 FR 30412, July 30, 1984)) and Departmental policies governing supporting resources support.

(b) Vessel operators, port authorities and container suppliers may request priority ratings to obtain fuels necessary to comply with orders issued under this regulation. Requests for priority ratings will be made in accordance with regulations issued by the Department.

§ 340.9 Compliance.

Pursuant to section 103 of the Defense Production Act, 1950 (50 U.S.C. App. 2073), any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this regulation shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

By order of the Maritime Administrator.

Dated: December 13, 1984.

Georgia P. Stamas,

Secretary, Maritime Administration.

[FR Doc. 84-33058 Filed 12-20-1984; 8:45 am]

BILLING CODE 4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order adopts an alphabetical index of the rules in Part 76 of the FCC's regulations (47 CFR Part 76). The index will provide fast access to the rules, reducing letters and phone calls to FCC staff requesting location assistance. Thus the addition will minimize administrative burdens on both the FCC and Cable TV systems personnel.

EFFECTIVE DATE: December 21, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Policy and Rules Division, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 76

Cable TV Service.

Order

In the Matter of Oversight of the Radio and TV Broadcast Rules.

Adopted: December 10, 1984.

Released: December 13, 1984.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission facilitates fast locating of its regulations in Part 76 (47 CFR Part 76) of the rules by creating an alphabetical index for this Part.

2. Our experience in alphabetically indexing the rules in Parts 73 and 74 has shown that the process makes possible the location of rules quickly and easily. Such fast access has brought about a better understanding of the rules by broadcasters and their advisors as a result of their ready availability. Providing easy and quick access to the rules has reduced, considerably, the number of letters and phone calls to the FCC requesting help in rule location, thereby minimizing paperwork and administrative workload on the FCC staff and on licensees and their legal and engineering advisors as well.

3. As in the case of the Parts 73 and 74 indexes, revisions and updates will be made in the future to keep this Part 76 index accurate and timely.

4. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by

licensees or the public. We conclude, for the reasons set forth above, that this addition to Part 76 will serve the public interest.

5. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

6. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

7. Therefore, it is ordered, that pursuant to Sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Part 76 of the FCC Rules and Regulations is amended as set forth in the attached appendix, effective on December 21, 1984.

8. For further information on this *Order*, contact Steve Crane, Mass Media Bureau, (202) 632-5414.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 76—[AMENDED]

An alphabetical index of rules is added to Part 76 and will be inserted at the end of the part.

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[FR Doc. 84-33056 Filed 12-20-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 84-370; RM-4672; FCC 84-619]

Sharing of Two Police Radio Service Frequency Pairs With Eligibles in the Fire and Special Emergency Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules which eliminate the non-voice limitation on the frequency pairs 460.525/465.525 and 460.550/465.550 MHz and allows persons eligible in the Fire and Special Emergency Radio Services to use these frequencies on a co-equal, shared basis with eligibles in the Police Radio Service. This action responds to a petition filed by the International Association of Fire Chiefs and the International Municipal Signal Association.

EFFECTIVE DATE: January 21, 1985.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, Rules Branch (202) 634-2443.

SUPPLEMENTARY INFORMATION: 47 CFR Part 90

List of Subjects

Private land mobile radio services, Radio.

Report and Order

In the matter of amendment of Part 90 of the Commission's Rules concerning the sharing of two police radio service frequency pairs with eligibles in the Fire and Special Emergency Radio Services (PR Docket No. 84-370, RM-4672).

Adopted: December 10, 1984.
Released: December 13, 1984.

By the Commission.

Introduction

1. On April 11, 1984, the Commission adopted a *Notice of Proposed Rule Making* (Notice) in the above entitled matter.[1] In the Notice the Commission proposed to delete the non-voice limitation on the Police Radio Service frequency pairs 460.525/465.525 and 460.550/465.550 MHz. Furthermore, the Commission proposed to make these two frequency pairs available to eligibles in the Fire Radio Service and to governmental entities eligible under Section 90.35 in the Special Emergency Radio Service for use on a co-equal, shared basis with Police Radio Service licensees.[2] Fire Radio Service and Special Emergency Radio Service licensees had been eligible for these two frequency pairs until the Commission reallocated them to the Police Radio Service in 1976. At that time existing systems were grandfathered until March 1, 1986 by the Commission. As a result, licensees from all three services co-exist on the frequencies today. The Notice also proposed that all applicants for the frequencies would be required to obtain frequency coordination.

2. Comments were filed by the Associated Public-Safety Communications Officers, Inc. (APCO); the International Association of Fire Chiefs, Inc. (IAFC) and the International Municipal Signal Association (IMSA); City of Cincinnati, Ohio; City of Alexandria, Virginia; City of Atlantic City, New Jersey; City of Petersburg, Virginia; and the Town of Greenburgh, New York. Reply comments were filed by the International Association of Fire Chiefs, Inc. and the International Municipal Signal Association.

3. Four parties supported the Commission's proposal.[3] Typical of the comments received in favor of the proposal were those of the petitioners, IAFC and IMSA, who stated that the "the proposed rule amendments are consistent with the Commission's policies of maximizing spectrum utilization and would eliminate the need for costly frequency changes on the part of those Fire and Special Emergency Radio Service licensees currently licensed to operate on the frequency pairs." In supporting the proposal, IAFC and IMSA requested that the Fire Radio Service coordinator be designated the exclusive coordinator for these two frequency pairs. However, in the event that APCO, the coordinator for the Police Radio Service, also wanted to coordinate these frequencies they stated that both IMSA and APCO could coordinate requests from their respective applicants while Special Emergency applicants could obtain coordination from either coordinator. If this approach were ultimately adopted, IAFC and IMSA asked that the Commission require the concurrence of both coordinators.

4. APCO, in its comments, agreed with the Commission that the non-voice limitation on these channels is no longer necessary. However, in regard to making these frequencies available on a regular basis to users in the Fire and Special Emergency Radio Services, APCO stated that it does not oppose the proposal provided that all of the frequencies is subject to frequency coordination and that it be designated as the exclusive coordinator. APCO argued that there are many differences in the needs and operation modes of police, fire, and special emergency licensees. The differences, according to APCO, make frequency coordination vitally important. APCO contended that in order for these frequencies to be shared and still be both useable and reliable public safety channels, the coordination should be performed by one entity.

5. The town of Greenburgh and the City of Atlantic City opposed the proposal. They urged the Commission not to allow voice operations on these channels because data and voice on the same channel are not compatible.

6. IAFC and IMSA filed reply comments. They argued that joint coordination of shared channels has worked well in the Private Land Mobile Radio Services to date and therefore there is no reason it should not work in this instance as well.

Discussion

7. We have considered all of the comments carefully. The issue of the compatibility of non-voice and voice systems operating on the same channel was considered in Docket 84-470.[4] In that proceeding the Commission decided to allow on a co-equal basis non-voice transmissions on frequencies regularly used for voice communications. The town of Greenburgh and the City of Atlantic City have submitted nothing new to convince us to revisit our decision on that issue. Accordingly, we are deleting the non-voice limitation on these two frequency pairs as proposed.

8. Our proposal to make these two frequency pairs available to eligibles in the Fire Radio Service and to governmental entities eligible under § 90.35 in the Special Emergency Radio Service on a co-equal shared basis with eligibles in the Police Radio Service was supported, in general, by the comments. As we stated in the *Notice*, sharing channels among like users tends to increase spectrum utilization. In this instance sharing will also provide a common channel for local police, fire, and medical entities to coordinate with one another in the event of an emergency. Accordingly, we are making

[1] *Notice of Proposed Rule Making*, PR Docket 84-370, released April 18, 1984, FCC 84-141, 49 FR 18571, May 1, 1984.

[2] Use of the frequencies by Special Emergency eligibles would be limited to emergency medical operations.

[3] IAFC and IMSA, City of Petersbury, City of Cincinnati, and the City of Alexandria.

[4] *Report and Order*, PR Docket 82-470, 48 FR 4792, February 3, 1983.

the two frequency pairs available to all three radio services as proposed.[5]

9. The only area of concern with the sharing arrangement seemed to be the manner in which the frequency pairs would be coordinated. IAFC and IMSA contend that the frequencies could be jointly coordinated by the fire and police coordinators, with each coordinator handling requests for coordination from its respective applicants. Special emergency applicants could obtain coordination from either coordinator. APCO, however, conditioned its support of the proposal for sharing on the Commission appointing it the coordinator for the two frequency pairs.

10. After considering the arguments in this matter, we have decided to adopt a joint coordination approach. In the private radio bands, some frequencies are shared by more than one service. The use of these frequencies is therefore subject to the concurrence of more than one coordinator. Because this approach has worked well to date, we see no reason not to apply it here. Further, we have proposed to modify our frequency coordination procedures in Docket 83-737.[6] In that proceeding we proposed to establish a single coordinator for each radio service. In cases where frequencies are shared between several radio services, we proposed continuing the present joint coordination approach. APCO has not submitted any persuasive argument why a joint coordination approach would not work. Consequently we are adopting coordination procedures where applicants shall direct their requests to their respective coordinator. Qualified Special Emergency Radio Service applicants may obtain coordination from either the Fire or Police Radio Service coordinator.[7] The same procedures currently followed in coordinating all other shared channels shall apply here, i.e. the concurrence of all parties must be reached before an application can be granted.

11. The action taken herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

12. Accordingly, it is ordered, that pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended effective January 21, 1985 as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

13. Further information on this matter may be obtained by contacting Herbert Zeiler (202) 634-2443, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

Part 90 of the Commission's Rules and Regulations is amended as follows:

1. Section 90.19(d) is amended by removing limitations (18) and (20) from the frequency table.

§ 90.19 Police Radio Service.

* * * * *

(d) *Frequencies available.*

* * * * *

POLICE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
*	* * * *	*
460.500	do	
460.525	do	17
460.550	do	17
*	* * * *	*
465.500	do	
465.525	do	17
465.500	do	17
*	* * * *	*

2. Section 90.19(e) is amended by revising limitation (17) and removing limitations (18) and (20).

§ 90.19 Police Radio Service.

* * * * *

(e) * * *

(17) This frequency is shared with the Fire and Special Emergency Radio Services.

(18) [Reserved]

* * * * *

(20) [Reserved

* * * * *

3. Section 90.21(c) is amended by revising limitation (8).

§ 90.21 Fire Radio Service.

* * * * *

(c) * * *

(8) This frequency is shared with the Police and Special Emergency Radio Services.

* * * * *

4. Section 90.53(b) is amended by revising limitation (17) and adding a new limitation (32).

§ 90.53 Frequencies available.

* * * * *

(b) * * *

(17) This frequency is shared with the Police and Fire Radio Services and is subject to the coordination requirements specified in § 90.175.

* * * * *

(32) This frequency is assignable only to governmental entities eligible under § 90.35(a) for the dispatch of medical care vehicles and personnel for the rendition or delivery of emergency medical services. This frequency may be designated by common consent for intra-system and inter-system mutual assistance purposes.

* * * * *

5. Section 90.175(e)(2) is revised to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(e) * * *

(2) Applications in the Special Emergency Radio Service, except as required by § 90.53(b) (8) and (17) and § 90.267 and § 90.175(g).

* * * * *

6. Section 90.555(b) is amended by revising the frequencies listed as follows:

§ 90.555 Combined frequency listing.

* * * * *

(b) Combined frequency list:

Frequency	Services	Special limitations
*	* * * *	*
460.500	PP	
460.525	PP, PF, PS	
460.550	PP, PF, PS	
*	* * * *	*
465.500	PP	
465.525	PP, PF, PS	
465.550	PP, PF, PS	
*	* * * *	*

[FR Doc. 84-33052 Filed 12-20-84; 8:45 am]

BILLING CODE 6712-01-M

[5] We will consider waiver requests to allow non-governmental eligibles under Section 90.35 or local civil defense organizations to use these frequencies when a city, town, or community wants a common channel between all of its emergency services (police, fire, ambulance, etc.).

[6] *Notice of Proposed Rule Making*, PR Docket No. 83-737, 49 FR 45454, November 16, 1984.

[7] There is currently no coordinator for the Special Emergency Radio Service. However, in Docket 83-737 the Commission proposed to recognize a coordinator for that service. If the Commission ultimately appoints a special emergency coordinator, qualified special emergency applicants for these frequencies would direct their requests to the new coordinator.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: In the **Federal Register** of January 19, 1981, the Service published (46 FR 5733) a critical habitat designation at 50 CFR 17.96(a) for the gypsum wild buckwheat (*Eriogonum gypsophilum*). The second Township and Range entry should have read T20S, R24E instead of T20S, R26E. The map was correct as published.

In the **Federal Register** of September 13, 1984, the Service published (49 FR 35951) an entry at 50 CFR 1711(h) for the Delmarva Peninsula fox squirrel (*Sciurus niger cinereus*) as a nonessential experimental population ("XN" under "Status") in Sussex County, Delaware. In conjunction with that amendment, the existing nonexperimental entry ("E" under "Status") for Delmarva Peninsula fox squirrel should have been corrected under the heading "Vertebrate population where endangered or threatened" to read "Entire, except for Sussex County, DE" instead of "Entire."

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is corrected by the Service, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

§ 17.96 [Corrected]

2. Amend § 17.96(a) as published on January 19, 1981 (46 FR 5733) by correcting the critical habitat entry of the gypsum wild buckwheat (*Eriogonum gypsophilum*) so that the second Township and Range reference reads "T20S, R24E" instead of "T20S, R26E."

3. FR Doc. 84-24198 published September 13, 1984 (49 FR 35951), is corrected to add the following amendment.

§ 17.11 [Corrected]

"4. Amend § 17.11(h) by amending the entry under MAMMALS for the Delmarva Peninsula fox squirrel (reading "E" under "Status") to read "Entire, except Sussex County, DE" under the heading "Vertebrate population where endangered or threatened" instead of "Entire." "

Dated: December 18, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-32777 Filed 12-20-84; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 31220-245]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of surf clam fishing time adjustment and closure.

SUMMARY: NOAA issues this notice to increase the allowable surf clam fishing time for the Mid-Atlantic Area of the fishery conservation zone. Allowable fishing time is adjusted from six hours every other week to six hours per week for the week of December 16-22, 1984. The fishery will then close for the week of December 23-29, 1984, and re-open to start the 1985 fishing year on December 30, 1984. Allowable fishing time for fishing year 1985 will be six hours per week. The intended effect is to allow the harvest of the remaining 1984 surf clam allocation and to inform surf clam permit holders of the 1985 allowable fishing time.

EFFECTIVE DATE: December 16, 1984.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, Acting Surf Clam Management Coordinator, 617-281-3600, extension 273.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries contain at 50 CFR 652.22(a)(3)(ii) a provision to increase allowable surf clam fishing time if, on review of available information, the Regional Director determines that the quarterly quota of surf clams probably will not be harvested.

High catch rates during the fourth quarter of the 1984 fishing year prompted a reduction of allowable fishing time for surf clams and restricted each vessel to six hours every other week (November 21, 1984, 49 FR 45859). This time reduction in the fishing schedule, combined with winter weather conditions, reduced the fourth-quarter catch rate by 45 percent to approximately 29,000 bushels per week. Analysis of available data show that on December 7, 1984, surf clam landings totaled 2,475,000 bushels. Thus, 75,000 bushels of the present 2,550,000 bushel quota remain to be harvested. Since only half of the fleet will be fishing during the final week of the reduced-fishing schedule, it is unlikely that the remaining 75,000 bushels will be harvested. Consequently the fishery will remain open for one more week, from December 16 through 22, 1984. During this week, all Mid-Atlantic Area surf clam vessels may fish for six hours on their authorized fishing day. The six-hour period will begin at 8:00 a.m. and end at 2:00 p.m. We estimate that the remaining quota will be harvested during this week. Therefore, the fishery will close on December 23, 1984.

To facilitate enforcement of the closure, any vessel unable to fish on Thursday, December 20, 1984, because of severe weather may claim December 30, 1984, the following Sunday after the closure, as a make-up day. The catch from these vessels will be applied toward the 1984 quota.

In 1984 several measures were required to prevent overharvest of the fishery. Harvest rates in 1985 are anticipated to be similar to 1984 levels. Therefore, in an effort to spread the quota more evenly throughout the year and prevent closures, allowable fishing time for surf clams will be six hours per week in 1985. The six-hour period begins at 8:00 a.m. and ends at 2:00 p.m.

The 1985 fishing year will begin Sunday, December 30, 1984.

This action is taken under the authority of 50 CFR Part 652 and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: December 18, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-33263 Filed 12-18-84; 4:47 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 247
Friday, December 21, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness for Production and Utilization Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has ruled in previous adjudications that its regulations do not require the consideration of potential impacts of earthquakes on emergency planning for nuclear reactor sites. The Commission now proposes to provide explicitly through amendment of its regulations in 10 CFR Part 50 that such consideration need not be given. Pending completion of this rulemaking, the interpretation of its rules set out in the adjudications remains in effect. It is not anticipated that this amendment will have significant impact on licensees, State, or local governments or on NRC or FEMA.

DATES: Comment period expires January 22, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration can be given only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Deliver comments to: Room 1121, 1717 H Street NW., Washington, DC between 8:15 a.m. and 5:00 p.m. weekdays. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 443-7615.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1981, the Commission ruled in a then pending adjudication that its emergency planning regulations do not require consideration of potential earthquake effects on emergency plans for nuclear power reactors. *In the Matter of Southern California Edison Company, et al.* (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-81-33, 14 NRC 1091 (1981). In so ruling the Commission stated:

> The Commission will consider on a generic basis whether regulations should be changed to address the potential impacts of a severe earthquake on emergency planning. For the interim, the proximate occurrence of an accidental radiological release and an earthquake that could disrupt normal emergency planning appears sufficiently unlikely that consideration in individual licensing proceedings pending generic consideration of the matter is not warranted 14 NRC at 1092.

The Commission recently affirmed this position in the Diablo Canyon proceeding. *In the Matter of Pacific Gas and Electric Company* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-84-12, 20 NRC——(August 10, 1984), petition for review in *San Luis Obispo Mothers for Peace* v. *NRC* (DC Cir. No. 84-1410). In this decision the Commission stated that it would initiate rulemaking "to address whether the potential for seismic impacts on emergency planning is a significant enough concern for large portions of the nation to warrant the amendment of the regulations to specifically consider those impacts. The chief focus of the rulemaking will be to obtain additional information to determine whether, in spite of current indications to the contrary, cost-effective reductions in overall risk may be obtained by the explicit consideration of severe earthquakes in emergency response planning." Slip Opinion at 9.

It should be noted that the Federal Emergency Management Agency (FEMA) reviews offsite radiological emergency planning and preparedness to insure the adequacy of Federal, State, and local capabilities in such areas as emergency organization, alert and notification, communications, measures to protect the public, accident assessment, public education and information, and medical support. Detailed, specific assessment of potential earthquake consequences and response are not part of this process related to radiological emergencies. Also, FEMA has coordinated planning for the Federal response to radiological emergencies including commercial nuclear power plant accidents. These efforts have resulted in FEMA publishing the Federal Radiological Emergency Response Plan in the Federal Register (49 FR 35896) on September 12, 1984. In addition, FEMA has an active program of earthquake preparedness which includes hazards and vulnerability analysis, estimates of damage and casualties, planning for Federal response to a major earthquake, and assistance to State and local governments in their earthquake planning and preparedness activities. FEMA believes that all of these activities are sufficiently flexible to complement each other in preparing for an event that may require a concurrent response to a major earthquake and a serious accident at a nuclear power plant.

For general background on emergency planning at nuclear facilities, the public is referred to NUREG-0396, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," and NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plant."[1] The latter document, developed jointly by the NRC and FEMA, forms the basis for both NRC and FEMA regulations on emergency planning at nuclear power facilities. Also available for public inspection are the complete case records for the *San Onofre* and *Diablo Canyon* proceedings, both of which deal specifically with the earthquake/emergency planning interface.

The Commission, in its review of the record and consideration of arguments in the *Diablo Canyon* proceeding, reached the view that its previous *San Onofre* holding was correct, i.e., that the

[1] Copies of these documents are available at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555. Copies of these documents may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Publications Sales Manager.

potential impact of earthquakes on emergency plans need not be considered. The rationale for this holding was stated in *Diablo Canyon* (Slip Opinion at 4–6), and may be summarized in part as follows:

> . . . [T]he seismic design of a nuclear power plant was reviewed to render extremely small the probability that . . . an earthquake [SSE] would result in a radiologic release . . . [For] those risk-dominant earthquakes which cause very severe damage to both the plant and the offsite area, emergency response would have marginal benefit because of its impairment by offsite damage . . . Specific consideration has been given in this case to the effects of other relatively frequent natural phenomena. The evidence includes the capability of the emergency plan to respond to disruptions in communications networks and evacuation routes as a result of fog, severe storms and heavy rain. In the extreme, these phenomena are capable of resulting in area-wide disruptions similar to some of the disruptions which may result from an earthquake . . . Thus, while no explicit consideration has been given to disruptions caused by earthquakes, the emergency plans do have considerable flexibility to handle the disruptions caused by various natural phenomena which occur with far greater frequency than do damaging earthquakes, and this implicitly includes some flexibility to handle disruptions from earthquakes as well.

Although the Commission's remarks were directed to the Diablo Canyon emergency plan, all nuclear power rector emergency plans do address the contingency that emergency actions may need to be taken under less-than-ideal conditions and with less-than-maximum emergency response capabilities.

Nuclear power plants are required to be designed to safely shut down for all earthquakes up to and including the "Safe Shutdown Earthquake," or SSE. *See* 10 CFR Part 50, Appendix A, General Design Criterion 2; 10 CFR Part 100, Appendix A. Accordingly, the probability of earthquakes large enough to cause major onsite damage that would result in a significant radiological release from the plant is low, and for such large earthquakes, offsite damage could make prior offsite emergency plans marginally useful at best. In addition, the probability of the proximate occurrence of an earthquake of substantial magnitude and a radiological release from the plant for reasons unrelated to the earthquake itself is even lower. Therefore, there does not appear to exist a set of circumstances at all likely where the consideration of earthquake impacts would significantly improve the state of emergency planning at a nuclear power reactor.

The ability to take protective actions throughout the plume exposure pathway (EPZ) could be hampered during the life of the plant by temporary adverse conditions resulting from natural phenomena such as rain, snow, flooding or by activities in the vicinity of the plant such as a major road repair. Existing NRC regulations require that emergency plans be comprehensive and flexible enough to assure the capability to take appropriate protective action to mitigate the effects of a nuclear emergency under such conditions. Similar types of adverse conditions could result from earthquakes below the Safe Shutdown Earthquake (SSE), which occur proximate in time with an unrelated accidental release of nuclear material from the facility. The concern is with seismic events in the region of the power plant which could impair offsite emergency response. However, emergency plans which meet the standards in 10 CFR 50.47 and Appendix E provide reasonable assurance that appropriate protective measures can and will be taken under such circumstances.

The magnitude of the SSE and the adequacy of a plant's design to meet the SSE are reviewed by NRC and may be controverted in adjudicatory proceedings, but, once settled, should not be reconsidered in reviewing or adjudicating emergency planning issues. If a larger earthquake were considered feasible, then a larger SSE would have been established. If an earthquake smaller than an SSE were considered to be capable of damaging a plant's safety systems, then the plant's design would have been corrected. Thus, emergency plans need not take take into account earthquakes larger or smaller than an SSE. Nevertheless, the basis for emergency planning is not constrained by the design basis for a plant, and emergency planning efforts recognize the possibility that events considered beyond the design basis can occur. A spectrum of potential consequences independent of the particular causes are analyzed in reaching decisions on emergency planning provisions, and the planning basis does not depend upon the particular scenario which may lead to significant offsite releases of radioactivity. To explicitly consider earthquakes as causes for radioactive releases is inconsistent with the emergency planning basis used by NRC in adopting its regulations.

The Commission intends to consider this issue carefully in this rulemaking and to weigh all arguments before reaching a final decision. In the meantime, this rulemaking should not be construed to affect the continuing validity of the Commission's ruling in *San Onofre* and *Diablo Canyon.*

Technical Information

When considering the possibilities of plant damage from seismic events, it is important to understand the severity of seismic events, their range of probabilities, and the potential for reactor accidents caused by seismic events. Three classes of seismic events are considered in this discussion. The first class includes earthquakes of relatively low ground motion, up to the Operating Basis Earthquake (OBE). The OBE ground motion depends on plant location. These accelerations vary in the range of about .05 g to 0.33 g. During an OBE, all safety related plant systems would be expected to remain operating.

The second class of events includes earthquakes with ground motion higher than the OBE but equal to or less than the Safe Shutdown Earthquakes (SSE); the ground motion of the SSE is typically about twice that of the OBE. Because probabilities of occurrence have large uncertainties for the SSE, typical estimates are in the order of one in a thousand to one in ten thousand per year. NRC regulations require that plants be designed to achieve a safe shutdown after an SSE. Given an SSE, all seismically qualified equipment would be expected to function to bring the plant to safe shutdown. An earthquake up to and including an SSE would be cause for an alert emergency action level classification, but would not cause failures that would result in a significant accidental release from the plant. Thus, although such an event would initiate certain emergency plan actions, no offsite response would be required. Only in the event of an accident attributable to multiple unrelated failures of safety related systems due to some undiscovered common cause failure mechanism (such as a major design error), coincident with an earthquake such as an SSE, would there be a situation which would require offsite emergency response when there was extensive offsite damage. The Commission believes that, because of the intensive, continuing review of nuclear safety conducted by NRC, there is an extremely low probability that any such failure mechanisms have been overlooked.

The final class of events includes all earthquakes with ground motion levels above the SSE. Fragility analysis has been used to estimate the probability of failure as a function of ground motion associated with these earthquakes. The Zion, Indian Point, and Limerick Probabilistic Risk Assessments estimated that ground motion on the order of 0.5 g to 0.75 g acceleration

would be required to damage these nuclear power plants to the extent that significant release of radioactivity could occur. Some plants, in certain regions, are designed to withstand earthquakes with such ground motion. These plants are able to resist damage to still higher levels of ground motion because of the design margin. It is apparent that the probability estimates for ground accelerations which would be required to damage these nuclear power plants to the extent that significant release of radioactivity would occur are less than the probability estimates for the SSE for these plants.

Based upon the probabilistic risk assessment results for these three plants, the NRC staff considers that for most earthquakes (including some earthquakes more severe than the SSE) the power plant would generally not be expected to pose an offsite radiological hazard. For earthquakes which would cause plant damage leading to immediate offsite radiological hazards but for which there would be relatively minor offsite damage, emergency response capabilities around nuclear power plants would not be seriously affected. For those earthquakes which cause very severe damage to both the plant and the offsite area, emergency response would have marginal benefit because of its impairment by offsite damage. However, the expenditures of additional resources to cope with seismically cause offsite damage may be "of doubtful value considering the modest benefit in overall risk reduction which could be obtained." CLI–84–12, (Slip Opinion at 5).

Proposed Rule

In the *Diablo Canyon* decision the Commission stated that it would initiate rulemaking "to address whether the potential for seismic impacts on emergency planning is a significant enough concern for large portions of the nation to warrant the amendment of the regulations to specifically consider those impacts. The chief focus of the rulemaking will be to obtain additional information to determine whether, in spite of current indications to the contrary, cost-effective reductions in overall risk may be obtained by the explicit consideration of severe earthquakes in emergency response planning." CLI–84–12 (Slip Operation at 9).

The amendments to 10 CFR 50.47 and 10 CFR Part 50 Appendix E which the Commission is proposing would explicitly incorporate in them the interpretations in the Commissions *San Onofre* and *Diablo Canyon* rulings. A new paragraph (e) would be added to 10 CFR 50.47 and a paragraph would be added to the "Introduction" section of Appendix E. The Commission wants to assure that it has the benefits of comments of all interested persons on the subject. The Commission therefore invites comment not only on the text of the proposed rule, but also on the fundamental question of the relationship between earthquakes and emergency planning at nuclear power facilities. Commenters should, at a minimum, address the merits of three possible alternatives:

1. Adoption of the proposed rule explicitly incorporating the Commission's interpretation in *San Onofre* and *Diablo Canyon;*

2. Leaving the issue open for adjudication on a case-by-case basis; or

3. Requiring by rule that emergency plans specifically address the impact of earthquakes.

The Commission would be most assisted by comments which offer specific policy and technical reasons for preferring one alternative over the others.

The Commission is also considering whether to include in this rulemaking tornadoes and other low-frequency natural events. In that possible case, offsite, emergency response plans submitted to satisfy the applicable standards of 10 CFR 50.47 and Appendix E would not need to specifically consider the impact on emergency response capability of earthquakes, tornadoes or any similar low-probability naturally occurring phenomena which are presumed to occur proximate in time with an accidental release of radioactive material from a licensed facility. Comments on this possible alternative are requested.

Separate Views of Commissioner Asselstine

It should be obvious that emergency planning is a site-specific exercise which is not amenable to a generic rulemaking such as that proposed by the Commission. In carrying out their emergency planning responsibilities, both the NRC staff and FEMA have recognized this. When they consider whether the emergency plan for a particular site is flexible enough to envelop all eventualities, they consider the effects of whatever natural phenomena are most likely to disrupt emergency planning at that site. Thus, they have considered snow in New England, hurricanes in Florida, tornados in the Midwest, and earthquakes in California.

The Commission now tells us, however, that the experts were wrong and that earthquakes are somehow so different from other natural phenomena that they need not be considered at all, even in areas of high seismic risk. I examined the basis for the Commission's conclusion in my separate views on CLI–84–12, the *Diablo Canyon* order, so I will not repeat here my reasons for disagreeing with the Commission's conclusion. Suffice it to say that I do not believe that there is any reasonable basis for a rule which would treat earthquakes differently from other natural phenomena for purposes of emergency planning.

In an attempt to counter my criticism of their course of action in the *Diablo Canyon* case, the Commission has just recently decided to request comment on a possible alternative rule which would also exclude from emergency planning "tornadoes and other low-frequency natural events." I do not believe that such a rule would be in the public interest. While hurricanes, tornadoes, and earthquakes may occur relatively infrequently, should they cause or occur coincident with an accident or an emergency at a nuclear plant they could significantly disrupt emergency response capabilities. The staff's solution to this problem has been to require licensees to consider what kinds of effects these natural phenomena cause and to determine whether their emergency plans are flexible enough to deal with these effects. This has hardly been an onerous burden. Thus, with a minimal expenditure of resources, the licensees can prepare for what could be a serious emergency planning problem.

When I agreed to the publication of a rule, I did so with the hope that the Commission intended to carefully and objectively examine the issue of whether and to what extent the complicating effects of earthquakes ought to be considered in emergency planning. I also hoped that the information gathered in the rulemaking would convince the Commission that a rule excluding altogether the considerations of earthquakes was not a wise thing to do. I find, however, that that was a forlorn hope. The Commission is instead intent merely on codifying its *Diablo Canyon* decision, and is going through with rulemaking procedures only so that it can say that it is allowing comment on the issue, no matter how meaningless that opportunity for comment turns out to be. I will not, therefore, agree to the publication of a rule with which I disagree when the rulemaking procedures are not being used as they were intended, to meaningfully gather information to be factored into the rulemaking decision, but instead are

being used solely to circumvent the hearing process in a particular licensing proceeding.

Chairman Palladino's Additional Views

In its bare essentials, the disagreement between the Commission majority and Commissioner Asselstine seems to be that the majority currently believes earthquakes need not be considered in emergency planning whereas Commissioner Asselstine believes that they should. I have difficulty understanding why the opportunity to comment on the majority's proposal should be viewed as "meaningless," or "solely to circumvent the hearing process," but an opportunity to comment on some other proposal, such as a proposal to consider earthquakes, should not. I would hope that the Commission's proposal will stimulate public comments, both pro and con, and I believe that the Commission has plainly indicated its desire to obtain and consider all pertinent comments and facts.

Proposed Finding of No Significant Environmental Impact

The Commission proposes to determine under the National Enviromental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this proposed rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. See 10 CFR 51.20(a)(1). This determination has been made because the Commission cannot identify any impact on the human environment associated with not requiring consideration of earthquakes in emergency planning and because it is an interpretation of existing regulation.

Regulatory Analysis

The Commission has prepared a regulatory analysis of this proposed regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the draft regulatory analysis is available for inspection and copying, for a fee, at the NRC Public Document Room, 1717 H Street, NW, Washington, DC. Single copies of the analysis may be obtained from Michael Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 433-7615.

Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule clarifies requirements for the issuance of an operating license for a nuclear power plant, licensed pursuant to Section 103 and 104b of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133, 2134b. The electric utility companies which own and operate nuclear power plants are dominant in their service areas and do not fall within the definition of a small business found in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121. Accordingly, there is no significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Sec. 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.47 a new paragraph (e) is added to read as follows:

§ 50.47 Emergency plans.

* * * * *

(e) Emergency response plans submitted to satisfy the standards set forth in this section need not consider the impact on emergency planning of earthquakes which cause, or occur proximate in time with, an accidental release of radioactive material from the facility.

Appendix E—[Amended]

3. A new sentence is added as an additional paragraph at the end of the Introduction section of Appendix E to read as follows:

I. Introduction

* * * * *

Neither emergency repsonse plans nor evacuation time analyses need consider the impact of earthquakes which cause, or occur proximate in time with, an accidental release of radioactive material from the facility.

Dated at Washington, DC, this 18th day of December 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-33227 Filed 12-20-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 24394; NPRM 84-24]

Special Flight Authorization for Noise Restricted Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed Special Federal Aviation Regulation (SFAR) provides for limited issuance of special flight authorizations to conduct certain nonrevenue operations that would otherwise be prohibited by the Part 91, Subpart E, noise restrictions after

December 31, 1984. This SFAR is necessary to prevent imposing an economic burden on those operators who have a justified need to make limited operations at U.S. airports and, without this SFAR, would have to petition for a grant of exemption under Part 11.

DATES: Comments must be received on or before December 31, 1984.

ADDRESS: Comments on the proposal are to be marked "Docket No. 24394" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24394, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be inspected in Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. David Smith, Noise Policy and Regulation Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comment should carry the regulatory docket or notice number and be submitted in duplicate to the address above. All comments received as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for comments.

Before taking any final action on the proposal, the Administrator will consider the comments made on or before the closing date, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter submits a self-addressed, stamped postcard with the comment and on the postcard the following statement is made: "Comments to Docket No. 24394." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future notices of proposed rulemaking should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Under Part 91 of the Federal Aviation Regulations, on or after January 1, 1985, no person may operate a civil subsonic turbojet airplane with maximum weight of more than 75,000 pounds to or from an airport in the United States unless that airplane has been shown to comply with Stage 2 or Stage 3 noise levels under Part 36. This restriction applies to U.S. registered aircraft that have standard airworthiness certificates and foreign registered aircraft that would be required to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane were it registered in the United States. Under current regulations, authority to conduct operations at U.S. airports on and after January 1, 1985, with noncomplying aircraft can only be obtained by a grant of exemption issued under Part 11. The FAA is aware that after January 1, 1985, there may be numerous operators desiring to operate noncompliant aircraft in the United States for the purpose of delivering them to foreign purchasers or flying them to a place where they can be modified to comply with Stage 2 or Stage 3 noise levels.

Absent this proposed SFAR, there is no regulatory basis for approval of limited special flight authorization for noncomplying aircraft under Part 91, Subpart E. Operators of these aircraft would need to petition for and receive a grant of exemption under Part 11 which is costly and time consuming for both the petitioner and the FAA. The FAA believes that it is in the public interest to allow limited operations of certain airplanes that do not meet the noise standards of Part 91, Subpart E, for the purpose of delivering the aircraft to a foreign purchaser or flying it to the site of a modifier in the United States who will bring it into compliance with FAR 91.303. With the issuance of this SFAR, operators would be able to apply for a special flight authorization to allow limited nonrevenue operations at specified U.S. airports.

Paperwork Reduction Act Approval

The reporting requirements contained in this proposal have been submitted to OMB for review. Comments on the requirements should be submitted to the Office of Information and Regulatory Affairs (OMB), New Executive Office Building, Room 3001, Washington, D.C. 20503; Attention: FAA Desk Officer (Telephone 202-395-7340). A copy should be submitted to the FAA docket.

Economic Impact

This proposal has minimal economic impact. Adoption of the proposal would allow an alternative from the exemption process which imposes greater administrative costs upon operators and the FAA. While the operations are not without some noise costs, these costs can be characterized as trivial, since the number of operations at any one local airport will be extremely low in number.

Even though benefits will exceed costs for this proposal, the FAA finds that the SFAR, if adopted, is not likely to have significant economic impact upon a substantial number of small entities. The basis for this is the very low number of requests which FAA foresees as a result of the adoption of this proposal. This number should not exceed one hundred over the life of the regulation. Accordingly, preparation of a full regulatory evaluation is not required.

Note that since Stage 1 aircraft may not be operated in the U.S. on or after January 1, 1985, only a 10 day comment period is provided for in this Notice.

List of Subjects in 14 CFR Part 91

Air Carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Pilots, Airspace, Air transportation, Airworthiness directives and standards.

The Proposed Amendments

PART 91—[AMENDED]

Accordingly, the FAA proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) as follows: Special Federal Aviation Regulation is proposed to read as follows, effective January 1, 1985:

Special Federal Aviation Regulations

1. Contrary to provisions of Part 91, Subpart E notwithstanding, an operator of a civil subsonic turbojet airplane with maximum weight of more than 75,000 pounds may conduct an approved

limited nonrevenue operation in that airplane at U.S. airports when—

(a) FAA authorization for the operation has been issued under paragraph 3 of this SFAR;

(b) The operator complies with all conditions and limitations established by this SFAR and the authorization;

(c) A copy of the authorization is carried aboard the airplane during all operations at U.S. airports; and

(d) The airplane carries an appropriate airworthiness certificate issued by the country of registration and meets the registration and identification requirements of that country.

2. FAA authorization for the operation of a Stage 1 civil turbojet to or from U.S. airports may be issued for the following purposes:

(a) Flying the airplane to an airport where alterations are to be performed to achieve compliance with Stage 2 or Stage 3 noise levels under Part 36;

(b) Exporting the airplane including flying the airplane to U.S. airports necessary in direct conjunction with the exportation of the airplane;

(c) Operations deemed necessary by the FAA for the sale; lease, or other disposition of the airplane; and

(d) Flying the airplane to a point of storage.

3. An application for a special flight authorization under this Special Federal Aviation Regulation should be submitted to the FAA, Director of the Office of Environment and Energy and include the following:

(a) The airplane operator;

(b) The airplane make model, registration number and serial number;

(c) The purpose of the special flight authorization;

(d) All U.S. airports to be included in the special flight authorization and the number of takeoffs and landings at each;

(e) The approximate dates of the requested flight authorization;

(f) The number of people to be aboard the airplane and the function of each; and

(g) Any other information or documentation requested by Director, Office of Environment and Energy, as necessary to determine whether the application should be approved.

4. This Special Federal Aviation Regulation terminates on December 31, 1986, unless sooner rescinded or superseded.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (40 U.S.C. 1354(a), 1421, 1423, and 1424); 49 U.S.C. 106(g) (revised; Pub. L. 97–449, January 12, 1983, Pub. L. 96–193, February 18, 1980))

This proposal has minimal economic consequencies. Accordingly, for reasons stated earlier the FAA has determined that: (1) The amendment does not involve a major rule under Executive Order 12291; (2) the amendment is not significant nor does it require a Regulatory Evaluation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979; and (3) it is certified that under the criteria of the Regulatory Flexibility Act that the amendment will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted would have little or no impact on trade opportunities for U.S. firms doing business overseas, or for foreign firms doing business in the United States.

Issued at Washington, D.C. on December 18, 1984.

John E. Wesler,

Director of Environment and Energy.

[FR Doc. 84–31496 Filed 12–20–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. 84P–0399]

Penicillin and Tetracyclines in Animal Feeds; Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearing.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing to solicit information and views of interested persons on the subtherapeutic use of penicillin and tetracyclines (chlortetracycline, oxytetracycline) in animal feeds. On November 20, 1984, the National Resources Defense Council, Inc. (NRDC), submitted a petition to the Secretary of Health and Human Services asking the Secretary to suspend approval of the new animal drug applications (NADA's) for subtherapeutic use of penicillin and tetracyclines in animal feeds. NRDC alleges that use of the drugs presents an imminent hazard to the public health. Suspension of approval would have the effect of prohibiting the continued marketing of the products. FDA will use information presented at the public hearing, together with other data and information, to develop recommendations to the Secretary on whether the drugs present an imminent hazard to the public health.

DATES: Written or oral notices of participation by January 11, 1985. The hearing will begin at 8:30 a.m. on January 25, 1985. Further comments, whether on matters discussed at the hearing or other issues, should be submitted by February 11, 1985.

ADDRESSES: The public hearing will be held at the Jack Masur Auditorium, Bldg. 10, Clinical Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Written notices of participation and comments should be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Max L. Crandall, Center for Veterinary Medicine (HFV–400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4557.

SUPPLEMENTARY INFORMATION: FDA has approved the subtherapeutic use of penicillin and tetracyclines in animal feeds for uses such as improved rate of weight gain, improved feed efficiency, and treatment and prevention of certain diseases. These uses and drug sponsors are listed in 21 CFR 558.15.

On November 20, 1984, the Secretary of Health and Human Services received a petition from NRDC asking that the Secretary immediately suspend approval of the NADA's for subtherapeutic use of penicillin and tetracyclines (chlortetracycline, oxytetracycline) in animal feeds under section 512(e)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(e)(1)) on the grounds that the continued marketing of these drugs present an imminent hazard to the public health.

NRDC relies on three recently published studies to establish that an imminent hazard to the public health is posed by the subtherapeutic use of penicillin and tetracyclines in animal feeds. NRDC contends that these studies establish that: (1) Widespread use of subtherapeutic dosage of these drugs in animal feeds contributes to the development of bacterial resistance to these drugs and (2) the presence in the environment of strains of bacteria resistant to these antibiotic drugs poses a serious threat to the public health. Using largely unpublished data, NRDC estimates that 116 to 264 deaths per year in the United States can be attributed to *Salmonella* infections caused by antibiotic-resistant organisms originating in food animals treated with subtherapeutic doses of the drugs.

The possibility of a public health problem caused by the subtherapeutic use of these drugs has been of concern to FDA for a number of years. In 1977,

FDA initiated withdrawal proceedings with respect to approved uses of subtherapeutic doses of penicillin and tetracyclines in animal feeds. The withdrawal proceedings were held up by, among other things, congressional advice to FDA to postpone action until more conclusive studies were completed. FDA is in the process of evaluating those studies.

The act requires FDA to withdraw approval of the application for a product if, among other things, information shows that the product is unsafe or ineffective. The usual administrative procedure for withdrawing approval of a product includes notice to the applicant of an opportunity for hearing, an administrative determination of whether a hearing is justified, the conduct of a full evidentiary public hearing before a presiding officer or the preparation of an order denying a hearing, and a decision by the Commissioner of Food and Drugs based on the administrative record. This procedure usually requires at least 6 months, and sometimes much longer. A drug may remain on the market for years while withdrawal proceedings are underway.

Section 512(e)(1) of the act also provides that approval of a new animal drug may be suspended, and the product immediately removed from the market, if it presents an "imminent hazard to the public health." The authority to suspend approval is placed by law in the Secretary (or in the absence of the Secretary, in the officer acting as Secretary) and may not be delegated. If new evidence or further analysis of existing evidence indicates that a life-threatening or other serious risk is present, the summary suspension procedure allows the Secretary to put a prompt end to that risk. If approval is suspended, the Secretary must provide the holder of the NADA with an opportunity for an expedited hearing on whether the application should be withdrawn and the product permanently removed from the market. NRDC's petition asks that the Secretary now invoke the imminent hazard provision of the act to remove from the market subtherapeutic use of penicillin and tetracyclines in animal feeds.

The Secretary has asked FDA to advise her promptly of the action that the agency believes should be taken in reponse to NRDC's petition. A decision to invoke the imminent hazard provision would result in immediate withdrawal of the drugs from the market. Such an action would have an impact on the involved manufacturers. Before preparing its recommendations to the Secretary, FDA believes that these and other interested persons should have an opportunity to comment to the agency on the petition. Accordingly, a public hearing will be held, on an expedited basis, before the Commissioner of Food and Drugs to provide an opportunity for such comment. A copy of NRDC's petition is available from the Dockets Management Branch (address above).

In order to focus participation at the public hearing, participants should be aware of the following criteria. The validity of using these five criteria in imminent hazard proceedings under the act was reviewed and upheld in *Forsham* v. *Califano*, 442 F. Supp. 203 (D.D.C. 1977). These criteria will be used by the agency in framing its recommendation on NRDC's petition:

1. The likelihood that, after the customary administrative process is completed, the products will be withdrawn from the market.

2. The severity of the harm that could be caused by the drug during the completion of customary administrative proceedings to withdraw the products from the market.

3. The likelihood that the products will cause such harm while the administration process is being completed.

4. The risk to the health of animals currently being given the products that might be occasioned by the immediate removal of the products from the market, taking into account the availability of other alternatives to the products and the steps necessary for affected animals to adjust to these other alternatives.

5. The availability of other approaches (for example, labeling changes) to protect the public health.

The hearing will be held on January 25, 1985, in Jack Masur Auditorium, Bldg. 10 Clinical Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. The hearing will begin at 8:30 a.m. The presiding officer will be Frank E. Young, Commissioner of Food and Drugs, with panelists Lester M. Crawford, Director of the Center for Veterinary Medicine, and Thomas Scarlett, Chief Counsel, FDA.

The procedures governing the hearing are found at 21 CFR Part 15.

Persons who wish to participate are requested to file a notice of participation with the Dockets Management Branch (address above) on or before January 11, 1985. To assure timely handling, any outer envelope should be clearly marked with Docket No. 84P-0399 and the statement "Penicillin and Tetracycline Animal Feeds—Hearing." The notice of participation should contain the interested person's name, address, telephone number, any business affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. FDA asks that groups having similar interests consolidate their comments and present them through a single representative. FDA will allocate the time available for the hearing among the persons who properly file notices of participation. If time permits, FDA may allow interested persons attending the hearing who did not submit a notice of participation in advance of the hearing to make an oral presentation at the conclusion of the hearing.

Persons who find there is insufficient time to submit the required information in writing may give oral notice of participation by telephone to Max L. Crandall, 301-443-4557, not later than January 11, 1985. Those participants who give oral notice of participation should also submit written notice containing the information described above to the Dockets Management Branch (address above) by January 21, 1985. Any outer envelope should be clearly marked with Docket No. 84P-0399 and the statement "Penicillin and Tetracycline Animal Feeds—Hearing."

After reviewing the notices of participation and accompanying information, FDA will schedule each appearance and notify each participant by telephone of the time allotted to the person and the approximate time the person's oral presentation is scheduled to begin. The hearing schedule will be available at the hearing, and after the hearing it will be placed on file in the Dockets Management Branch under Docket No. 84P-0399.

To permit time for all interested persons to submit data, information, or views on this subject, the administrative record of the hearing will remain open for 15 days following the hearing. Persons who wish to provide additional materials for consideration should file these materials with the Dockets Management Branch by February 11, 1985. To assure timely handling, any outer envelope should be clearly marked with Docket No. 84P-0399 and the statement "Penicillin and Tetracycline Animal Feeds Hearing."

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA public proceedings, including formal

evidentiary hearings conducted pursuant to Part 12 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the testimony of witnesses in the proceedings. Accordingly, the parties and nonparty participants to this hearing, and all other interested persons, are directed to the guidelines, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on this hearing.

Dated: December 17, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84-33191 Filed 12-18-84 12:00 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Fire Island National Seashore, NY; Seaplane Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rulemaking deletes the community of Robbins Rest from designation as a seaplane access area on Fire Island National Seashore because of public safety problems which occurred during the 1983 and 1984 summer seasons. This will assure the continued safety of the community.

DATES: Written comments will be accepted until January 22, 1985.

ADDRESS: Comments should be directed to: Superintendent, Fire Island National Seashore, Patchogue, New York 11772.

FOR FURTHER INFORMATION CONTACT: Jack Hauptman, Superintendent, Fire Island National Seashore, Telephone: (516) 2898-4810.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1979, the National Park Service promulgated final regulations to control seaplane and amphibious aircraft operations within Fire Island National Seashore (FR 44492). This rule established zones for take-offs and landings and designated areas where taxing could take place. These regulations were developed to promote public safety, to minimize the conflicts among the various users, and to protect the resources of the seashore.

The designation of these taxi routes was based on public comment received during the public involvement phase of the rulemaking process. Twelve island communities indicated a desire to permit seaplane and amphibious aircraft access.

After the promulgation of this regulation in July 1979 there continued to be a conflict between the property owners and visitors in three of the island communities—Fair Harbor, Ocean Bay Park and Cherry Grove. Due to the fact that these three communities have bayside swimming beaches and mooring access, interaction between seaplanes and persons pursuing water recreation activities continued and created numerous public safety problems. From July 22 to September 9, 1979, 50 complaints were filed with the National Park Service. These complaints cited such incidents as near-collisions between seaplanes and boats, and seaplanes taxing among swimmers.

As a result of these complaints and the potential threat to life and property indicated, the representatives of the Fair Harbor, Ocean Bay Park and Cherry Grove communities approached the National Park Service and asked that their communities no longer be designated as access points for seaplane use. Notarized letters to this effect were received by the Superintendent indicating that community referenda were held and a majority favored the removal of seaplane access designation. An amendment to these regulations (45 FR 49549; July 25, 1980) removed these three communities from designation as seaplane access points, as requested by the community leaders.

During the 1980 summer season, the residents and visitors in the communities of Dunewood and Point O'Woods experienced similar problems and likewise forwarded notarized letters indicating the need for greater protection from seaplane use and showing the results of referenda indicating the majority desire to restrict seaplane access from the lands and waters within their community boundaries. An amendment to these regulations (47 FR 11011, March 15, 1982) removed these two additional communities from the list of approved seaplane access points.

During the summers of 1982 and 1983 the Property Owners Association of Robbins Rest-Ocean View expressed concern about the safety of continuing seaplane service to these communities. In the fall of 1983, the Superintendent received an official request from the Property Owners Association of Robbins Rest that this community be removed from the list of approved seaplane access points. This proposed rule reflects the results of this official request and removes this additional community from the list of approved seaplane access points.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to offer the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections to the address noted at the beginning of this rulemaking.

Drafting Information

The author of this regulation is Donald Weir, Fire Island National Seashore.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Service has determined that the regulations proposed in this rulemaking will not have a significant economic effect on a substantial number of small entities, nor does it require the preparation of a regulatory analysis.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332) the Service prepared an Environmental Assessment in 1978, and received extensive public comment during 1978 and 1979, regarding the subject matter of 36 CFR 7.20(b) dealing with seaplane and amphibious aircraft operations at Fire Island National Seashore. This assessment is on file and available for review at the park headquarters.

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291.

List of Subjects in 36 CFR Part 7

National parks.

Authority. Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3).

In consideration of the foregoing it is proposed to amend 36 CFR Chapter 1 as follows:

PART 7—SPECIAL REGULATIONS

§ 7.20 Fire Island National Seashore.

1. In § 7.20 remove paragraph (b)(3)(iv) and redesignate paragraphs (b)(3)(v) as (b)(3)(iv), (b)(3)(vi) as (b)(3)(v), and (b)(3)(vii) as (3)(b)(vi).

Dated: November 23, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-33276 Filed 12-20-84; 8:45 am]

BILLING CODE 4310-70-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 18

[NASA FAR Supplement Directive 85-2]

NASA Implementation of the Federal Acquisition Regulation (FAR); NASA Federal Acquisition Regulation Supplement (NASA/FAR Supplement)

AGENCY: NASA Office of Procurement, Procurement Policy Division.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the NASA proposal to issue NASA FAR Supplement Directive (NFSD) 85-2 which amends the NASA Federal Acquisition Regulation Supplement. Chapter 18 of the Federal Acquisition Regulations System (see 49 FR 6388). This NFSD supplements FAR implementation of Pub. L 98-369 and 98-72, and it contains various editorial corrections. The proposed NASA FAR Supplement Directive is available for review and comment.

DATE: Comments are due not later than January 22, 1985.

ADDRESS: Requests for copies of the proposal and comments should be addressed to NASA headquarters, Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-453-2119.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. NASA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83-2.

List of Subjects in 48 CFR Ch. 18

NASA Federal acquisition regulation supplement Government procurement.

Dated: April 1985.

L.E. Hopkins,

Deputy Assistant Administrator for Procurement.

[FR Doc. 84-33211 Filed 12-20-84; 8:45 am]

BILLING CODE 7510-01-M

Notices

Federal Register
Vol. 49, No. 247
Friday, December 21, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Forest Service

[Docket No. 84-364]

Availability of Draft Supplement to Gypsy Moth Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service and Forest Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice of the availability for public comment of a draft supplement to a Final Environmental Impact Statement on Gypsy Moth Suppression and Eradication Projects in the United States (FEIS). The draft supplement to the FEIS has been prepared by the Animal and Plant Health Inspection Service (APHIS) and the Forest Service, United States Department of Agriculture (USDA) and proposes to revise material discussed in the FEIS approved on May 8, 1984. The draft supplement to the FEIS was sent to the Environmental Protection Agency on December 14, 1984, by USDA pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

DATE: Written comments concerning the draft supplement to the FEIS must be received by February 4, 1985.

ADDRESSES: Submit written comments concerning the draft suppplement to the FEIS to Gary Moorehead, Staff Officer, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 663 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Copies of the draft supplement to the FEIS are available by mail except from locations designated by an asterisk. Copies may be inspected at any of the following locations:

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302-E, Administrative Building, 14th and Independence Avenue, Washington, DC 20250

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 657 Federal Building, 511 NW. Broadway, Portland, OR 97209-3490

Plant Division,* Oregon Department of Agriculture, Agricultural Building, Salem, OR 97310

Gypsy Moth Office,* Oregon Department of Agriculture, 950 W. 13th Street, Eugene, OR 97402

Pacific Southwest Region, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 630 Sansome Street

Eastern Region, Regional Forester, Forest Service, U.S. Department of Agriculture, 310 W. Wisconsin Avenue, Room 500, Milwaukee, WI 53203

Pacific Northwest Region, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 319 Southwest Pine Street, P.O. Box 3623, Portland, OR 97208

Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008

Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 180 Canfield Street, Morgantown, WV 26505

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436-8295; or Peter W. Orr, Assistant Director, Insect and Disease Management Staff, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008, (215) 461-3153.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) and the Forest Service of the United States Department of Agriculture published a notice in the Federal Register on August 23, 1984 (49 FR 33471-33472), of their intent to prepare a supplement to the Final Environmental Impact Statement on Gypsy Moth Suppression and Eradication Projects in the United States (FEIS). The draft supplement to the FEIS was prepared in response to comments and new information received by the Forest Service and APHIS on material discussed in the FEIS after the FEIS was approved May 8, 1984 (49 FR 20345).

The draft supplement to the FEIS proposes to significantly revise Appendix F of the FEIS with regard to an analysis of the human health risks of using acephate, carbaryl, diflubenzuron and trichlorfon insecticides in the gypsy moth suppression and eradication projects. This proposed revision includes a discussion of the following:

(1) Evaluation and incorporation of information provided in registration standards issued by EPA for carbaryl and trichlorfon;

(2) New information on the cancer potential of trichlorfon;

(3) The cancer risk analysis of N-nitrosocarbaryl and trichlorfon;

(4) The cancer risk analysis for aircraft and truck spills (accidents);

(5) The mutagenic potential of acephate, carbaryl, diflubenzuron, and trichlorfon;

(6) The teratogenic (birth defects) potential of acephate, carbaryl, diflubenzuron, and trichlorfon;

(7) The potential impact of acephate, carbaryl, diflubenzuron, and trichlorfon on sensitive populations;

(8) The concept and derivation of ADI's (Acceptable Daily Intake);

(9) The potential synergistic and cumulative effects of acephate, carbaryl, diflubenzuron, and trichlorfon;

(10) Additional data on insecticide residues in foodstuffs;

(11) An update of the worst case dose probabilities reflected by 1984 gypsy moth suppression project data; and

(12) The addition of a table of contents.

Major revisions are also proposed for the Chemical Insecticides Section of the Environmental Consequences chapter in the FEIS in order to reflect revisions to the risk analysis proposed for Appendix F.

In addition to the proposed revisions discussed above, the draft supplement proposes certain minor corrections and clarifications to the text of the FEIS. The draft supplement does not propose to eliminate or change any of the alternatives discussed in the FEIS.

The draft supplement to the FEIS was furnished to EPA on December 14, 1984. Copies of the draft supplement are available upon request. (See **"ADDRESSES"**)

Done at Washington, D.C., this 19th day of December, 1984.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

R. Max Peterson,

Chief, Forest Service.

[FR Doc. 84-33376 Filed 12-20-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.
Title: Format for Petition Requesting Relief Under U.S. Countervailing Duty Law.
Form number: Agency—ITA-366P; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 20 respondents; 800 reporting hours.
Needs and uses: Under section 702 of the Tariff Act of 1930, the Department of Commerce (DOC) is required to conduct countervailing duty investigations when acceptable petitions are received from an interested party. Data is used to determine whether an investigation by DOC is warranted.
Affected public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Sheri Fox, 395-3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: December 18, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-33264 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.
Title: Annual Survey of Foreign Direct Investment in the United States.
Form number: Agency—BE-15; OMB—0608-0034.
Type of request: Extension of a currently approved collection.
Burden: 4,000 respondents; 12,000 reporting hours.
Needs and uses: This survey is used to obtain financial and operating data on U.S. companies owned by foreign persons consisting of information on balance sheets, income statements, employment, and trade; and by state, acres of land and mineral rights and property, plant, and equipment owned. The information is used to prepare the international accounts of the United States.
Affected public: Businesses or other for-profit institutions.
Frequency: Annually.
Respondent's obligation: Mandatory.
OMB desk officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sphere OMB Desk Officer, Room 3235, New Exeuctive Office Building, Washington, D.C. 20503.

Dated: December 17, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-33265 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

Annual Survey of Retail Sales and Inventories; Determination

In accordance with Title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published October 31, 1984 (49 FR 43732), I have determined that various government agencies need the 1984 annual retail trade data to provide a sound statistical basis for the formation of policy and that these data also serve a variety of public and business needs. This annual survey is a continuation of similar surveys that we have conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales, purchases of merchandise and accounts receivable balances for 1984 and year-end inventories for 1983 and 1984. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

The Census Bureau will require a selected sample of firms operating retail establishments in the United States (with sales size determining the probability of selection) to report in the 1984 Annual Retail Trade Survey. The sample will provide, with measurable reliability, statistics on the specified subjects.

We will furnish report forms to the firms covered by this survey and will require their submission within 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: December 17, 1984.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 84-33214 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-557-401]

Preliminary Affirmative Countervailing Duty Determination; Certain Apparel From Malaysia; and Preliminary Negative Countervailing Duty Determination; Certain Textile Mill Products From Malaysia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturer, producers, or exporters of certain apparel in Malaysia. The estimated net bounty or grant is 0.57 percent *ad valorem*. We also preliminarily determine that no benefits which constitute bounties or grants within the meaning of the Act are being provided to manufacturers, producers, or exporters in Malaysia of certain textile mill products. The net countervailable benefit is *de minimis* and therefore our preliminary determination is negative. Accordingly, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain apparel from Malaysia that are entered, or withdrawn from warehouse, for consumption after the date of publication of this notice and to require a cash deposit or bond on entries of apparel in the amount equal to the estimated net bounty or grant.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Malaysia." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we are changing the titles of these investigations to "Certain Textile Mill Products and Apparel from Malaysia." The scope of these investigations remains the same as announced in the initiation.

If these investigations proceed normally, we will make our final determinations by March 4, 1985.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATIONS:

Preliminary Determinations

For purposes of these investigations, the following programs are preliminarily found to confer bounties or grants:

- Tax Incentives for Exporters; and
- Preferential Short-Term Financing.

The estimated net bounty or grant for apparel is 0.57 percent *ad valorem*. Therefore, we preliminarily determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act) are being provided to manufacturers, producers, or exporters of certain apparel in Malaysia. The estimated net countervailable benefit for certain textile mill products is *de minimis*. Therefore, with respect to certain textile mill products, we preliminarily determine that there is no reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 303 are being provided to manufacturers, producers, or exporters in Malaysia of certain textile mill products.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textiles and textile products. In compilance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Malaysia of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initiated such investigations (49 FR 32439). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Malaysia is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to U.S. industries.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Malaysia in Washington, D.C., on August 27, 1984. Based on the responses to the preliminary questionnaire, we requested responses from those producers who account for at least 60 percent of the textiles and apparel exported to the United States. We selected four textile producers and exporters, and six apparel producers and exporters to respond to the detailed questionnaire. On October 24, 1984, we presented the detailed government and company questionnaires to the government of Malaysia in Washington, D.C. The responses to our detailed questionnaires were received on November 26, 1984.

We received timely requests for exclusion from two companies, Eastern Garment Mfg. Co. Sdn. Bhd. ("Eastern"), and Palace Garment Mfg. Sdn. Bhd. ("Palace"), to whcih we also sent copies of the detailed questionnaire. Eastern's response indicates that it receives benefits which are *de minimis*, and it is therefore excluded from this preliminary determination. Palace, however, receives countervailable benefits above the *de minimis* rate of 0.50%, and we have, therefore, included Palace in the suspension of liquidation.

Certain respondents in the *Certain Textile Mill Products and Apparel* investigations have raised the issue as to whether petitioners have standing to file these cases. We have addressed this issue in our preliminary determination of *Certain Textile Mill Products and Apparel from Indonesia*, published concurrently with this notice. See that notice for our comments on the issue of petitioners' standing.

Scope of the Investigation

The products covered by these investigations are certain textile mill products and apparel, which are described in the appendix to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina;

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order", which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Determined to Confer Countervailable Benefits

We preliminarily determine that countervailable benefits are being provided to manufacturers, producers, or exporters in Malaysia of certain textile mill products and apparel under the following programs:

A. Tax Incentives for Exporters

Petitioners allege that the government of Malaysia uses several tax incentives to promote textile exports. First, a double tax deduction is granted for expenses related to export sales, including advertising costs outside Malaysia, export market research, participation in trade exhibitions and overseas sales offices. Secondly, Malaysian companies can deduct from net taxable income eight percent of the FOB value of export sales if Malaysian content of the product is more than 50 percent; they can deduct five percent if Malaysian content is less than 50 percent.

In its response, the government of Malaysia stated that section 27 of the Investment Incentives Act of 1968 allows exporters to obtain a double deduction of eligible export promotion expenses in determining taxable income. In addition section 29 of the same act provided (for tax years prior to 1983) a deduction of two percent of the ex-factory value of exports from taxable income and a deduction of 10 percent of the increase in export value from the preceding year. In 1983, the government of Malaysia amended the "export allowance" provisions, i.e., section 29, of the law by eliminating the deductions described above and providing only a deduction of five percent of export revenues from taxable income.

Because these special tax deductions are granted on the basis of exports, we preliminarily determine that they are countervailable. The benefit from these deductions is equal to any tax savings directly attributable to their use. Where we were able to determine the exact extent to which a company claiming these deductions actually used them during the tax period under investigation, we computed the benefit based on these exact amounts. Where we were unable to make this determination, as best information available, we assumed that these deductions were used in an amount directly proportional to their share of total special deductions claimed. We calculated a net benefit of 0.21 percent for apparel. According to the responses, none of the textile mill products companies under investigation claimed these special export tax deductions during the period of investigation.

B. Perferential Short-Term Financing

Petitioners allege that the government of Malaysia provides preferential pre- and post-export short-term refinancing through the Malaysian banking system. The commercial banks allegedly provide loans to exporters at the preferential rate of 4.5 percent, which the central bank then refinances.

In its response, the government of Malaysia stated that its central bank maintains an export credit refinancing facility for both pre- and post-shipment refinancing. This facility allows commercial banks to finance export transactions for a period of up to 92 days. Access to these funds is usually limited to 3 million Malaysian dollars for each exporter. The annual interest rates on these loans have varied between 5 and 8 percent since 1981.

Because these loans are granted to finance exports and because the interest rates on these loans are lower than those available from commercial sources, we preliminarily determine that these loans confer a countervailable benefit upon certain textile mill products and apparel from Malaysia. To calculate the benefit, we used as our benchmark the average 1983 commercial lending rate of 11.7 percent, as published by Bank Negara Malaysia. We then calculated the amount of the benefit using our short-term loan methodology. We calculated a benefit of 0.40 percent for textiles and 0.36 percent for apparel.

II. Programs Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Malaysia of certain textile mill products and apparel did not use the following programs which were listed in our notice of initiation:

A. Export Credit Insurance

Petitioners allege that exporters benefit from the provision of export credit insurance at rates which are inconsistent with commercial considerations and which are inadequate to cover the long-term operating risks of the insurance program. According to the responses of the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies used export credit insurance during the review period.

B. Preferential Financing for Bumiputras

Petitioners allege that textile and apparel manufacturers benefit from preferential financing and other types of assistance that are especially available to Bumiputras, the indigenous people of Malaysia. According to the responses of the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies received such financing during the review period.

C. Labor Utilization

Petitioners allege that companies in labor-intensive industries such as textiles and apparel receive tax relief under the Labor Utilization Relief Program. According to the responses of the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies applied for or received benefits under this program during the review period of investigation.

D. Investment Tax Credit

Petitioners allege that exporters benefit from investment tax credits of at least 25 percent of capital expenditures on factories, machinery and equipment for use of a government-approved project. According to the responses of the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies has been approved for receipt of the investment tax credit during the review period.

E. Increased Capital Allowance

Petitioners allege that textile and

apparel exporters benefit from an increased capital allowance for deductions on new equipment and modernization costs. According to the responses of the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies received the increased capital allowance during the review period.

F. Locational Incentives

Petitioners allege that exporters may benefit from a Locational Incentive Program, which provides up to 10 years of tax relief to companies which are located away from congested areas, and which have been deemed by the government to be a priority industry or whose products contain a certain percentage of Malaysian content. According to the responses of the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies received locational incentives benefits during the review period.

G. Building Allowance

Petitioners allege that exporters benefit from an Industrial Building Allowance, instituted by the government, which provides exporters with deductions from the cost of acquisition of warehouses and facilities. According to the responses from the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies claimed a deduction for the special building allowance for export-related warehouse and storage facilities during the review period.

H. Accelerated Depreciation

Petitioners allege that the Malaysian manufacturers benefit from accelerated depreciation on equipment used to build, modernize or expand plant facilities when their exports total more than 20 percent, by value, of total production. According to the response of the government of Malaysia and the companies chosen to respond to our questionnaire, none of these companies used the special accelerated depreciation available for exports during the review period.

III. Programs for Which We Need Additional Information

A. Free Trade Zones

Petitioners allege that textile and apparel exporters located in Free Trade Zones receive countervailable benefits from tax and duty exemptions on imports of capital equipment and on materials other than those physically incorporated into exported products.

The government of Malaysia responded that companies located in the Free Trade Zones do not receive any treatment that differs from the treatment received by similar entities not located in the Free Trade Zones. Since 1960, the government of Malaysia has imposed no import duties on imports of machinery for new manufacturing enterprises or expansion of existing enterprises regardless of their location. Projects which have received such exemptions have included textiles, chemicals, electronics, food products, metal products, and wood-based products.

With regard to imported materials, the government of Malaysia stated that section 5 of the Free Trade Zone Act permits "goods * * * which would be used directly for the manufacture of other goods and are approved by the minister or which are meant for export may be brought into a free trade zone without payment of any customs duty, excise duty or sales tax." However, the government of Malaysia went on to say that under section 99 of the Customs Act of 1967, companies located outside the free trade zones can receive a duty drawback for materials that are imported and subsequently exported. Therefore, a company does not receive any benefits as a result of being located in a free trade zone other than the administrative convenience of not having to apply for exemptions and drawbacks from import duties.

We have no information concerning the import duties on "materials other than those physically incorporated into the exported products." Therefore, we will seek more information during verification in order to make a decision concerning this program in our final determination.

B. Reinvestment Allowance

Petitioners allege that textile and apparel manufacturers benefit from a Reinvestment Allowance which permits manufacturing companies to deduct 25 percent of their expansion costs in plant, equipment and machinery.

Schedule 7A of the Income Tax Act of 1967 authorizes a reinvestment allowance of 25 percent of the approved expenditure under the Industrial Coordination Act of 1975. In its response, the government of Malaysia stated that the program is not limited to any region, product or sector and that according to section 4(3) of the Industrial Coordination Act, the approval of a license is based only on whether the project is "consistent with the rational economic and social objectives and would promote the orderly development of manufacturing activities in Malaysia."

Because we have no information on what would be considered as "consistent with the rational economic and social objectives * * * of manufacturing activities in Malaysia" and no knowledge of what industries or kinds of industries besides the textile and apparel companies have received benefits under this program, we will seek more information during verification in order to make a decision concerning this program in our final determination.

C. Industrial Estates

Petitioners allege that under this program the government of Malaysia sponsors and finances industrial estates which provide real estate and financing at preferential rates to export-oriented, resource-based, labor-intensive industries. Petitioners claim the purpose of this program is to induce companies to settle away from congested areas.

According to the government of Malaysia, there are no pre-established conditions for the establishment of or location of an industrial estate. The state governments, not the central government, control and develop the locations, then lease to companies whose operations are compatible with the purpose, size and location of the industrial estates.

At this time, we have insufficient information to make a determination on this program. During verification, we will seek clarification on the financing and administration of, and participation in this program in order to make a decision in our final determination.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination. As previously stated, we will not accept any statement in the responses that cannot be verified in our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain apparel which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 0.57 percent *ad valorem*. The entries of certain apparel from Eastern will be excluded from this suspension of Liquidation. This suspension will remain

in effect until further notice. As discussed above, our preliminary determination with respect to certain textile mill products is negative; therefore, we are not directing the U.S. Customs Service to suspend liquidation of entries of certain textile mill products.

Public Comment

In accordance with section 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on February 13, 1985, at the U.S. Department of Commerce, room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B–099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 6, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filled in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 17, 1984.

Appendix

List of TSUSA codes which covered Malaysia's exports of certain textile mill products and apparel to the United States in 1983.

A. Textile Mill Products

Yarns and Threads

310.4047	310.5049					

Woven Fabrics

320.0002	320.0008	320.0036	320.0058	320.1008	320.1038	320.1040
320.1058	320.2038	321.1054	322.1054	322.1094	322.4028	323.1054
323.1092	325.1054	325.8092	325.8094	327.3042	326.3046	326.4092
326.6028	327.1044	327.2092	327.3054	327.3058	327.4092	328.0092
328.1058	328.1064	328.1092	328.2044	328.2058	328.2064	328.2092
328.2094	328.3018	328.3028	328.3046	328.3092	328.4058	328.4092
328.4094	328.5058	328.5068	328.9088	328.9092	330.2092	331.1092
331.2092	331.4092	331.7094	338.5009	338.5010	338.5021	338.5024
338.5032	338.5035	338.5036	338.5039	338.5041	338.5043	338.5044
338.5045	338.5046	338.5054	338.5069			

Textile Furnishings

366.4700	366.6550					

Miscellaneous

389.6265						

B. Apparel

370.0800	372.1540	372.1560	372.7520	374.4000	374.5020	376.2425
376.5408	376.5412	378.0550	378.1535	379.0240	379.0620	379.0640
379.0645	379.2320	379.2360	379.2630	379.2650	379.3120	379.3905
379.3930	379.4020	379.4030	379.4040	379.4050	379.4060	379.4070
379.4330	379.4615	379.4620	379.4650	379.4660	379.4670	379.5220
379.5510	379.5520	379.5525	379.5530	379.5535	379.5545	379.5550
379.5555	379.5560	379.5565	379.5800	379.6210	379.6215	379.6220
379.6230	379.6240	379.6250	379.6260	379.6270	379.6280	379.6450
379.6470	379.7400	379.7610	379.7620	379.7630	379.7640	379.8311
379.8355	379.8635	379.8915	379.8930	379.8940	379.9010	379.9020
379.9030	379.9035	379.9040	379.9250	379.9505	379.9525	379.9530
379.9535	379.9540	379.9545	379.9550	379.9555	379.9560	379.9565
383.0210	383.0215	383.0221	383.0225	383.0335	383.0350	383.0505
383.0506	383.0520	383.0605	383.0610	383.0615	383.0616	383.0632
383.0805	383.0841	383.0856	383.1807	383.1820	383.1841	383.1842
383.1910	383.1935	383.1940	383.2040	383.2052	383.2056	383.2205
383.2210	383.2220	383.2352	383.2356	383.2365	383.2706	383.2708
383.2709	383.2720	383.2725	383.2730	383.2731	383.2750	383.2751
383.2810	383.2820	383.2830	383.2835	383.2836	383.2910	383.2920
383.3030	383.3040	383.3050	383.3060	383.3065	383.3070	383.3200
383.3415	383.3435	383.3445	383.3448	383.3450	383.3452	383.3465
383.3466	383.4200	383.4300	383.4702	383.4704	383.4705	383.4707
383.4709	383.4711	383.4720	383.4721	383.4730	383.4747	383.4749
383.4753	383.4755	383.4757	383.4761	383.4763	383.4765	383.4821
383.4825	383.5035	383.5052	383.5072	383.5086	383.5090	383.5830
383.6200	383.6310	383.6340	383.6360	383.6371	383.6372	383.7550
383.7882	383.8002	383.8003	383.8004	383.8005	383.8043	383.8044
383.8045	383.8047	383.8073	383.8110	383.8117	383.8140	383.8160
383.8660	383.8663	383.8669	383.8670	383.9010	383.9015	383.9025
383.9030	383.9035	383.9040	383.9050	383.9051	383.9065	383.9070
383.9210	383.9215	383.9225	383.9270	383.9290	383.9291	

Miscellaneous

702.1200	703.1600	704.3220	704.4010	704.4025	704.4502	704.4504
704.4506	704.4508	704.8520	704.8550	705.8520	706.3640	706.3680
706.3900	706.4106					

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[C-489-401]

Preliminary Affirmative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From Turkey and Rescission of Initiation of Investigation With Respect to Hand-Made Turkish Carpets

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Turkey of certain textile mill products and apparel. The estimated net bounty or grant is 15.77 percent *ad valorem* for textile mill products and 16.97 percent *ad valorem* for apparel. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Turkey that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounty or grant. In addition, we rescind our notice of initiation of investigation with respect to hand-made Turkish carpets.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Turkey." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we are changing the titles of these investigations to "Certain Textile Mill Products and Apparel from Turkey." The scope of these investigations remains the same as announced in the initiation, with one exception (hand-made Turkish carpets) discussed below.

If these investigations proceed normally, we will make our final determinations by March 4, 1984.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3464 or 377-1769.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Turkey of certain textile mill products and apparel. For purposes of these investigations, the following programs are preliminarily found to confer a bounty or grant:

- Export Tax Rebate and Supplemental Export Tax Rebate Program;
- Deduction from Taxable Income for Export Revenues; and
- Preferential Short-Term Export Financing.

We estimate the net bounty or grant to be 15.77 percent *ad valorem* for textile mill products and 16.97 percent *ad valorem* for apparel.

Case History

On July 20, 1984 we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industries producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Turkey of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 15, 1984, we initiated these investigations (49 FR 32639). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Turkey is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303(a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Certain respondents in the *Textile Mill Products and Apparel* investigations have raised the issue as to whether petitioners have standing to file these cases. We have addressed this issue in our preliminary determinations of *Certain Textile Mill Products and Apparel from Indonesia*, published concurrently with this notice. See the notice for our comments on the issue of petitioners' standing.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Turkey in Washington, D.C., on August 24, 1984. Based on the responses to the preliminarily questionnaire, we requested detailed responses from those producers who account for at least 60 percent of the textile mill products and apparel exported to the United States. The government of Turkey submitted its answers to our preliminary questionnaire in two parts: on October 9, 1984 (describing its textile mill products and apparel industries), and on November 16, 1984 (describing its programs). Neither response identified all producers who manufactured for export to the U.S. On October 31, 1984, we presented the detailed government and company questionnaires to the government of Turkey in Washington, D.C. The responses to our detailed questionnaires have not yet been received.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel, which are

described in Appendix A, attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Turkey of certain textile mill products and apparel under the following programs.

A. Export Tax Rebate and Supplemental Tax Rebate Program

The Turkish government provides tax rebates to exporters of textile mill products and apparel in accordance with Law number 261 and Decree number 7/10624 of September 16, 1975, as amended by Decrees number 8/2625 of April 23, 1981, number 8/4397 of April 22, 1982, and number 83/7542 of December 29, 1983. The Turkish government's response states that it refunds completely or partially, taxes and duties paid during the production process in order to expand the range of Turkish exports, to increase the competitiveness of the exports in world markets, and to increase the variety and volume of industrial products among Turkey's total exports.

The State Planning Office determines which products are eligible for the tax rebate program on the basis of considerations such as comparable prices of like products in world markets, the relevant supply and demand conditions in Turkey, and the tax burden in the product's cost structure. The Turkish government calculates the tax rebate by applying a predetermined rebate rate to the FOB value of the exported goods. Rates are determined by studying the incidence of production, real estate, and sales taxes, as well as other taxes, duties and fees applicable to inputs or the product itself.

During 1983, there were many product-dependent schedules, each with its own rate. However, as a result of program-wide changes implemented by the Turkish government, these tax rebates and additional rebates were reduced across the board during 1984. Information submitted by counsel for the government of Turkey indicates a weighted-average export tax rebate rate of 6.85 percent for apparel and a 5.65 percent rebate rate for textile mill products.

Based on information provided by the government of Turkey, we preliminarily determine that the export payment is designed *inter alia*, to rebate indirect taxes and that the indirect tax incidence is reasonably calculated. Moreover, it has long been the Department's policy to take such program-wide changes into account where they are implemented after the review period, but prior to a preliminary determination. Therefore, we have used the 1984 rebate as the basis for calculating the potential over rebate.

In order to quantify the value of the bounty or grant conferred by the export tax rebate we deducted from each of the above rates an amount representing production taxes (indirect taxes paid on prior stage materials which are physically incorporated into the product) identified in the Turkish response to be at least 4.5 percent.

In addition to the basic export tax rebate, the government of Turkey also provides additional rebates to companies when their export proceeds exceed $2 million dollars during a calendar year. Beginning on September 1, 1984, these supplemental tax rebates were reduced significantly from those in 1983. The rates are currently 5.5 percent for cumulative annual exports of more than 30 million dollars, 6.6 percent for cumulative annual exports between 30 and 10 million dollars, 3.3 percent for cumulative annual exports between 10 million dollars and 2 million dollars, and zero percent for cumulative annual exports of less than 2 million dollars. The government of Turkey's response indicates that 20 percent of textile mill products and apparel exports to the United States were made by international trading companies which fell into the first category. We have assumed that the remaining 80 percent of the textile mill products and apparel exports were distributed equally among companies in all three categories. We quantified these supplemental rebates by multiplying rebate rates by the proportion of textile exports to which they apply. As a result, we calculated a weighted average supplemental export tax rebate of 3.74 percent applicable to all products under investigation.

For the export tax rebate and supplemental tax rebate programs, the estimated total net bounty or grant is preliminarily determined to be 6.09 percent *ad valorem* for apparel and 4.89 percent *ad valorem* for textile mill products.

B. Deduction From Taxable Income for Export Revenues

Article 8 of the Turkish Corporation Tax Law permits producers and exporters of textile mill products and apparel to deduct export revenues from taxable income. Law 2573 effective January 1, 1982, modified this provision by limiting the deduction to 20 percent of export revenues derived from industrial exports, provided that such exports exceeded $250,000 annually. Incremental increases in exports may be entitled to larger deductions. Exporters who are not producers receive a 5 percent deduction.

Under Article 94 of the Turkish Income Tax Law, as amended by Law 2772 of January 1, 1983, such deductions for export revenues are subject to an additional tax. If the income from the deduction is distributed to shareholders, the tax rate on this income is 25 percent. If the income is retained, it is taxed at a 20 percent rate under Article 105 of the Turkish Income Tax Law, as modified by Decree number 8/5759.

The use of this benefit depends on a company's status as a corporation, its annual export earnings, its overall profitability (it must have taxable income), whether the product is exported by a producer or a non-producer and how the deduction income was distributed. The government of Turkey's responses do not include information on actual company experience.

In the absence of information on utilization of this program, we are assuming that all exports to the United

States were produced by a corporation and exported by another non-producing corporation. We are also assuming that the corporations were profitable, exported more than $250,000 annually, and retained the profits earned from the deduction.

We calculated the tax savings by comparing the maximum amount of tax companies would have paid using the deduction for export revenues with the maximum amount these same companies would have paid if they did not use the program. On this basis, we calculated an *ad valorem* benefit of 5 percent to manufacturers, producers, and exporters of the merchandise under investigation.

C. Preferential Short-Term Export Financing

The government of Turkey provides preferential short-term financing to exporters of textile mill products and apparel through a variety of mechanisms: interest rebates to the lending banks for export loans, differential rediscounting rates for export loans and, since 1984, reserve requirements which vary based on the amount of deposits loaned for export financing.

Short-term export loans in Turkey are classified as certificated or non-certificated. Certificated credits are extensions of credit for export goods based upon export incentive certificates issued by the Incentive and Implementation Department of the State Planning Office. In 1983, exporters holding incentive certificates and exporters without certificates could borrow up to 80 percent of the value of exports for a maximum duration of one year. International trading companies could borrow up to 90 percent of the value of exports, also for one year. In 1984, the amount that could be borrowed by certificated and non-certificated exporters was lowered to 70 percent. (The portion did not change for international trading companies.) Also, the maximum duration of credit for all borrowers decreased to six months.

When Central Bank funds are available, commercial banks are able to rediscount the export credits they have extended. For certificated credits, 50–65 percent of amounts loaned can be rediscounted. For non-certificated credits, the portion is 40–50 percent, and for credits extended to international trading companies, 100 percent. Though the rediscounting facility remains nominally available to commercial banks, it has become relatively unimportant. According to the response, no new rediscounted credits have been extended since August, 1984.

For those export loans that are not rediscounted, commercial banks can apply for an interest rebate if the interest they are charging the exporter falls below a specified rate. The maximum interest rebate was set at 8 percent in December, 1983. In May, 1984, the maximum rebate was lowered to 7 percent.

Finally, in 1984 the reserve requirements, as a percentage of deposit funds, were changed. The general reserve requirement is now 25 percent. This is in contrast to the 20 percent reserve requirement for deposits which comprise the basis for export credits.

To calculate the benefit arising from the combination of mechanisms that encourage commercial banks to lend for export transactions we have compared the national average commercial rate for short-term loans to the interest rate that can be charged for export loans while still qualifying for a full rebate from the interest rebate fund.

Because the government of Turkey's response did not include information on the amount of short-term export financing used by exporters of textile mill products and apparel, we are assuming as best information available that exporters used the maximum short-term credits available. We further assume that 20 percent of the textile mill product and apparel exports to the U.S. were made by international trading companies, whose benefits exceed the benefits provided to other exporters in Turkey.

The interest differentials were multiplied by the maximum percentage of export values allowed for exporters of industrial products and for international trading companies.

Consistent with our policy of taking into account program-wide changes that occur prior to our preliminary determination, we have calculated an estimated *ad valorem* benefit of 5.88 percent for 1984. This rate reflects the changes in the amounts that certificated and non-certificated exporters may borrow and the shorter time period for which the credits are extended. In calculating the estimated benefit, we did not accept the statement in the response that banks generally charge the maximum amount of interest for export loans and hence do not avail themselves of the interest rebate.

II. Program Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Turkey of certain textile mill products and apparel did not use the following program.

Free Trade Zones at the Coastal Cities of Mersin and Antalya

Petitioners allege that the government of Turkey has established two free trade zones at Antalya and Mersin for the purpose of promoting exports, and that producers and exporters of textile mill products and apparel may have benefited from the use of this program. The government of Turkey's response stated that, while the first legal steps toward establishing free trade zones were taken in November, 1983, there are no free trade zones in Turkey. Accordingly, we preliminarily determine that no manufacturer, producer, or exporter of textile mill products and apparel used bounties or grants potentially available in a free trade zone.

III. Programs for Which Additional Information Is Needed

General Incentives Table Programs

The petitioners allege that the government of Turkey provides benefits to exporters of textile mill products and apparel in the form of a program called the General Encouragement Table, also known as the General Incentives Table. This is composed of programs for: (1) The exemption or deferral of customs duties on investments which are consistent with Turkey's Five-Year Development Plan and which also either increase Turkish export competitiveness, bring in new technology or develop projects with improved economies of scale, (2) provision of tax deductions or credits for investments in priority sectors, priority regions, or export oriented industries, and (3) rebates of interest on medium-term credit.

The textile mill products and apparel industries are specifically identified as targets for these programs. In particular, eligibility for incentives appears to depend heavily on export orientation of textile mill products and apparel producers. Moreover, location of firms in regions designated for priority development is a factor. Finally, textile mill products and apparel manufacturers and exporters may also qualify for incentives directed at export-oriented investment.

A. Duty Exemption or Deferral under the General Inentives Table and Related Fee Exemptions

The government of Turkey stated in its response that they do not maintain records of the companies participating in the duty exemption or deferral programs or the amount of benefits which these companies received. These records are said to be in the possession of the individual companies who have not responded to the supplemental questionnaire. Petitioners did not

provide us with information on quantifying this benefit.

We intend to seek additional information before or during verification on benefits conferred on the textile mill products and apparel industries by virture of duty exemptions or deferrals on capital equipment imported by such industries under this program. The information sought also includes detailed quantification of benefits received through exemption from duty surcharge (municipal tax), stamp duty, quay fees and production taxes, which was requested in our original questionnaire but was not received.

B. Tax Incentives for Regional Investment, Exort-Oriented Investment, and Investment in the Textile Sector under the General Incentives Table

The petitioners allege that the General Incentives Table provides both income and coporation tax benefits for investment. Companies investing in under-developed regions (southern, eastern and north-central Anatolia) are permitted to deduct 60 percent of the cost of fixed investments from taxable income. Export-oriented industries are permitted to deduct 50 percent of the cost of fixed investments, and companies in priority sectors of the economy are permitted to deduct 30 percent of the cost of fixed investments from taxable income.

The response of the government of Turkey did not contain information which allows us to quantify the potential benefit from tax deductions used by the textile mill products and apparel industries through this program, either in aggregate or on a company-specific basis. Nor did petitioners provide an estimated net bounty or grant. During verification we will seek the additional information necessary to determine the overall benefit of this program to producers and exporters of textile mill products and apparel.

C. Preferential Medium and Long-Term Loans under the General Incentives Table

Based on incentive certificates issued by the State Planning Office, the commercial banking system in Turkey provides medium-term guaranteed investment credits as provided in the general Incentives Table to encourage export-oriented investments, and investments in priority sectors and priority regions.

To acquire medium-term credit, a firm obtains an incentive certificate from the State Planning Office. The Central Bank provides rediscount resoruces on a prject basis for such medium-term credits. Commercial banks can also extend their own resources from such loans and receive incentives to do so in the form of interest rate rebates. In addition, firms which borrow under this program do not pay an interest surcharge to the Interest Rebate Fund, a surcharge which is paid by other borrowers.

The government of Turkey's response states that it does not have information on the companies that received medium-term-loans under this program. The response estimates that between 50 to 70 percent of the fixed investment value in the textile sector may be financed through medium-term credits, but provides no information about the value of the fixed-investments. Nor did petitioners provide an estimated net bounty or grant.

We cannot value the benefits received by producers and exporters of textile mill products and apparel under this program without more definitive information. We will attempt at our verification to determine the extent of financing under this program, the amount of interest rate rebates provided to borrowers, and the degree to which, if any, the benefit of rebates to banks have been translated into benefits for the textile mill products and apparel industries.

D. Financial Assistance by the Turkish Government to Failing Textile Firms

Petitioners alleged that the Turkish Government has provided financial assistance on terms inconsistent with commercial considerations to Guney Sanayi and Milli Mensucat, two major textile concerns that were undergoing financial difficulties.

The government of Turkey's response states that in 1982 it extended a loan to Guney Sanayi in order to change the company's debt structure. Although the company is claimed to be creditworthy, we were told that its debt structure was very short compared to industry standards. The response states that the interest rate on the loan was close to the average commercial interest rate and that interest and principal payments have been made when due. Further the response states that the Turkish government has not extended support to any other company in the textile mill products and apparel industries.

Because the information concerning the terms of the loan are incomplete, it is impossible to quantify the benefits provided. Therefore, we will seek further information on this issue before or during our verification.

E. Preferential Access to and Retention of Foreign Exchange by Exporters

The petitioners alleged that exporters are given priority access to foreign currencies for the import of materials and equipment. The value of the foreign currency obtained is restricted to a fixed percentage of the company's projected exports. Further, exporters may retain 20 percent of their foreign exchange proceeds in foreign exchange accounts. The foreign exchange may be used to finance imports or the rights to the foreign exchange may be transferred to suppliers or other importers at "competitive" prices. Petitioners assert that the priority access to foreign exchange and the ability to retain it provide a benefit by virtue of differences between the official exhange rate and the parallel market exchange rate.

The government of Turkey stated in its response that access to foreign exchange was modified by Decree 83/7541 of December 28, 1983, and Decree 84/7557 of January 12, 1984. The former decree allowed Turkish residents free access to foreign currency. In the latter decree 84/7557, Articles 20 through 26 allocate foreign exchange based on export value. In addition, the response states that the Central Bank publishes official exchange rates daily that are adjusted as required to conform the official rate to the market rate. According to the U.S. Federal Reserve Bank, as of January 1, 1984, the exchange rate is fixed at a base rate as long as the market is within six percent of this rate.

It is unclear how any of these factors affect producers and exporters of textile mill products and apparel or what benefits may be conferred. Free access to foreign exchange would appear to obviate any benefit from allowing exporters access to foreign exchange based on projected exports. Moreover merchandise exporters must surrender 80 percent of their foreign exchange earnings to the Central Bank upon repatriation of those earnings. Other earners of foreign exchange do not face any surrender requirements.

At or prior to verification, we intend to seek additional information.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determinations. As previously stated, we will not accept any statement in the response that cannot be verified in our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Turkey which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require an *ad valorem* cash deposit or bond for each such entry of this merchandise as follows:

Product	Ad valorem rate (percent)
Certain textile mill products	15.77
Apparel	16.97

This suspension will remain in effect until further notice.

Rescission of Initiation of Investigation With Respect to Hand-Made Turkish Carpets, Similar Floor Coverings and Wall Handings

The government of Turkey has requested that the Department terminate the instant investigations with respect to hand-made Turkish carpets and other similar floor coverings and wall hangings (hereafter referred to collectively as "Turkish rugs"). The government argues that termination is warranted, because, in the case of Turkish rugs, there is no "like product" produced in the United States. Therefore, petitioners lack standing to file a countervailing duty petition against these products.

Under the Act, "termination" is a term of art which, in an investigation initiated upon the basis of a petition, generally refers to situations in which a petitioner withdraws its petition. Here, the petitioners have not withdrawn their petition. Nonetheless, the U.S. Court of International Trade has held that the Department may rescind an initiation of an investigation where the Department subsequently discovers that the petitioner lacks standing. *Gilmore Steel Corp. v. United States,* 585 F. Supp. 670 (1984). Thus, the Department has the authority to rescind its initiation in this case should it determine that petitioners lack standing with respect to Turkish rugs.

Under section 702(b)(1) of the Act, in order to have standing to file a countervailing duty petition, a petitioner must be a domestic interested party within the meaning of sections 771(9) (C), (D), or (E), and must file the petition on behalf of an industry in the United States. Both the definitions of domestic interested parties and industry depend upon the definition of "like product," which is defined in section 771(10) of the Act as:

> * * * a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

If a "like product" is not produced in the United States, a potential petitioner would not have standing to file a countervailing duty petition.

In the pending investigations of textile mill products and apparel from various countries, petitioners essentially have contended that all of the various types of products under investigation constitute one "article" for the wide range of textile mill products and apparel. The Department has rejected this contention, and preliminarily divided the products under investigation into 151 categories, for which separate "like product" determinations must be made for standing pruposes. (This matter is discussed in greater detail in connection with the general problem of petitioners' standing in *Preliminary Affirmative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Indonesia,* published concurrently with this notice).

In this case, the Turkish government claims that because Turkish rugs are unique, the Department should consider them separately in making a "like product" determination for standing purposes. ATMI concedes that "[t]he market for rugs in the United States is a separate entity from the much larger broadloom or carpet market, and it should be considered separately." We agree with both parties that a separate "like product" determination is warranted for Turkish rugs.

The remaining question is whether there is a "like product" for Turkish rugs in the United States. While it is undisputed that there are no hand-made products produced in the United States comparable to Turkish rugs, ATMI claims that machine-made reproductions of Oriental-style rugs produced by Karastan Rug Mills, a division of Fieldcrest Mills, Inc., are a like product, because they are "most similar" to Turkish rugs. The Turkish government counters that of all products produced in the United States, Karastan reproductions may be the "most similar" product. Hoiwever, the government argues that one should interpret section 771(10) in light of the purpose of the countervailing duty law, which is to protect U.S. industries from unfair *competition.* If an imported product does not compete with any product made in the United States, there cannot be a "like product."

We agree with the Turkish government that section 771(10) must be interpreted within certain limits, bearing in mind the prupose of the countervailing duty law. Under ATMI's literal approach, one could consider motorcycles to be a "like product" to automobiles (assuming the absence of a U.S. auto industry) on the ground that motorcycles are "most similar" to automobiles. The absurdity of such a result is self-evidence, and could not have been contemplated by Congress.

The more difficult issue is whether or not Karastan reproductions compete with imported Turkish rugs. The record contains conflicting evidence on this point. The Turkish government has submitted considerable evidence, including the affidavit of Mr. Lee Howard Beshar, an authority on Turkish rugs and their machine-made counterparts. Among other things, Mr. Beshar notes that the items are physically different, and that Turkish items are sold primarily in specialty carpet and antique stores. According to Mr. Beshar, consumers generally purchase Turkish items at the instruciton of an interior designer or for the prestige of owning an authentic Oriental item. In some cases, purchasers collect Turkish items for investment purposes, which is not the case with respect to Karastan reproductions. where hand-made and machine-made items are sold in the same store, they frequently are sold in spearate departments with different salespersons and different buyer representatives. Mr. Beshar states that purchasers usually already know whether they wish to purchase a hand-made original or a machine-made imitation prior to entering a store that sells both, and that moderate price fluctuations in either the U.S. items or the Turkish items generally have little or no effect on a prospective purchaser's decision to purchase. The gist of Mr. Beshar's testimony is that hand-made rugs and machine-made reproductions are in different markets.

In support of its position, ATMI has submitted a letter from Karastan Rug Mills, in which Karastan claims that it competes directly with Turkish rugs. Karastan claims that Turkish rugs are selling at the retail level in the same price range as U.S. machine-made reproductions. According to Karastan, the consumer could easily choose either U.S. rugs or Turkish rugs, depending on color and pattern. ATMI also notes that under one particular tariff item (360.1515), the imported unit value indicates that Turkish rugs are in a price range comparable to many U.S. produced carpets. However, this

evidence of wholesale prices is not persuasive on the question of whether there is competition at the retail level. Finally, ATMI cites the fact that in 1980 and 1981, the U.S. Trade Policy Staff Committee ("TPSC") denied duty-free treatment under the Generalized System of Preferences for hand-knotted carpets, allegedly "[b]ecause it recognized that U.S. producers manufactured a similar product which would be negatively impacted by GSP treatment for imports."

Although there is conflicting evidence on the record, we are persuaded that Turkish rugs do not compete with machine-made reproductions. Although not the only factor in our decision, we are particularly impressed by the testimony concerning the consumer's expectations concerning these products. with respect to ATMI's argument on the decision by the TPSC, ATMI did not provide any evidence supporting its claim as to the basis for the TPSC's decision.

Accordingly, we determine that there is no "like product" for Turkish rugs in the United States, and that petitioners lack standing to file a countervailing duty petition against Turkish rugs. Even assuming *arguendo* that Karastan reproductions are a "like product," we elsewhere have determined that ATMI does not have standing because it is not an interested party with respect to any of the products under investigation. Karastan Rug Mills is the only U.S. company of which we are aware that produces a product which can even remotely be considered a "like product" to Turkish rugs, but it is not a petitioner in the instant investigation. Therefore, we are rescinding the initiation of the investigation with respect to TSUSA items 360.0600, 360.1020, 360.1515, 360.1520, 360.7900, 361.4500, 361.4800, 361.5420, and 361.5426.

Public Comment

In accordance with section 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on February 7, 1985, at the U.S. Department of Commerce, Room B841, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 calendar days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) A list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by January 31, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 17, 1984.

Appendix A

The products covered by these investigations are certain textile mill products and apparel, which are currently classified under the item number of the *Tariff Schedules of the United States, Annotated (TSUSA)* listed below.

A. Textile Mill Products

Yarns

301.1100	301.2000	301.3000	301.4000	302.1022	302.1024	303.2042
307.6810	307.6830	307.6850	310.0214	310.4027	310.6038	310.9000
310.9120						

Fabric

320.1038	321.4028	322.2084	336.6447	338.1570

Special Construction Fabrics

346.6050

Textile Furnishings

360.4215	360.4815	360.4825	360.4855	360.8400	361.0510	361.2405
361.5000	360.7000	361.5630	361.5650	361.5660	363.1040	363.2580
363.5130	363.6540	363.7500	364.1300	364.2300	365.7825	366.1880
366.2180	366.2460	366.2480	366.2780	366.4600	366.7925	366.7930
367.3424	367.3428	367.4500				

Miscellaneous

386.0600	386.5045	388.4000	389.6265	706	706.3850	706.4106
706.4111						

B. Apparel

Apparel

370.8440	372.1020	372.1030	372.1040	372.1050	372.1540	372.3500
372.4500	372.6420	373.1000	373.2200	374.3530	374.3550	374.5040
374.6040	378.1030	378.1540	379.3915	379.3925	379.3930	379.4020
379.4030	379.3050	379.4060	379.4110	379.4140	379.4640	379.4670
379.4910	379.4920	379.5520	379.5545	379.5550	379.5565	379.6220
379.6240	379.7605	379.7620	379.8355	379.9020	379.9565	383.0210
383.0215	383.0218	383.0233	383.0305	383.0306	383.0390	383.0505
383.0615	383.0630	383.0805	383.0820	383.0841	383.0860	383.1320
383.1610	383.2205	383.2305	383.2706	383.2707	383.2708	383.2709
383.2720	383.2725	383.2730	383.2731	383.2750	383.2751	383.2810
383.2815	383.2820	383.2820	383.2835	383.2910	383.3010	383.3020
383.3030	383.3040	383.3050	383.3060	383.3090	383.3200	383.3445
383.3448	383.3465	383.3466	383.3710	383.3770	383.4200	383.4300
383.4702	383.4705	383.4709	383.4711	383.4721	383.4730	383.4747
383.4761	383.4763	383.4816	383.4821	383.4825	383.5030	383.5035
383.5072	383.5073	383.5090	383.5395	383.6310	383.6330	383.6345
383.6360	383.6371	383.6395	383.7000	383.7205	383.7210	383.7510
383.7540	383.7550	383.7560	383.7590	383.7764	383.7768	383.7782
383.7864	383.7868	383.7872	383.7882	383.8004	383.8045	383.8070
383.8073	383.8300	383.8400	383.8620	383.8663	383.9015	383.9025
383.9050	383.9060	383.9225	702.0600	702.8000	704.2000	704.6500
704.8550	704.9000					

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[C-549-401]

Preliminary Affirmative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Thailand of certain textile mill products and apparel. The estimated net bounty or grant is 6.01 percent *ad valorem* for certain textile mill products and 2.03 percent *ad valorem* for apparel. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Thailand that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounty or grant.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Thailand." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we are changing the titles of these investigations to "Certain Textile Mill Products and Apparel from Thailand." The scope of these investigations remains the same as announced in the notice of initiation.

If these investigations proceed normally, we will make our final determinations by March 4, 1985.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara E. Tillman, Laura Campabasso, or Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1785, 377-5403 or 377-5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Thailand of certain textile mill products and apparel. For purposes of these investigations, the following programs are preliminarily found to confer a bounty or grant:

- Export Credits;
- Rediscount of Industrial Bills;
- Electricity Discount for Exporters;
- Tax Certificates for Exports; and
- Assistance to Trading Companies.

We estimate the net bounty or grant to be 6.01 percent *ad valorem* for certain textile mill products and 2.03 percent *ad valorem* for apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textiles and textile products. In compliance with the filing requirements of section 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Thailand of certain textiles and textile product receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations and, on August 15, 1984, we initiated such investigations (49 FR 32639). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Thailand is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303(a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Thailand in Washington, D.C. on August 27, 1984. Based on the responses to the preliminary questionnaire, we requested responses from those producers who account for at least 60 percent of the value of certain textile mill products and apparel exported to the United States. We selected three producers and exporters of certain textile mill products, and 18 apparel producers and exporters to respond to the detailed questionnaire. In addition, we requested responses from the five trading companies that exported the subject merchandise manufactured by the selected producers to the United States. On October 25, 1984, we presented the detailed government and company questionnaires to the government of Thailand in Washington, D.C. The responses to our detailed questionnaires were received on November 27, November 30, December 3 and December 7, 1984.

Certain respondents in the certain textile mill products and apparel investigations have raised the issue as to whether petitioners have standing to file these cases. We have addressed this issue in our preliminary determinations of "Certain Textile Mill Products and Apparel from Indonesia," published concurrently with this notice. See that notice for our comments on the issue of petitioners' standing.

Scope of the Investigation

The products covered by these investigations are certain textile mill products and apparel, which are described in the Appendix attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the Subsidies Appendix attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a

program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants is calendar year 1983.

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

1. Programs Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Thailand of certain textile mill products and apparel under the following programs.

A. Export Credits

Export credits, which are also called export packing credits, are short-term loans used for eight pre-shipment or post-shipment financing. These loans, which are provided through commercial banks, can be rediscounted at the Bank of Thailand through its export financing facility. Under the "Regulations Governing the Rediscount of Promissory Notes Arising from Exports" (B.E. 2514), the commercial banks, during the period for which we are measuring bounties or grants, charged the borrower a maximum of seven percent per annum for the export credit, and then the bank rediscounted these loans at 5 percent with the Bank of Thailand. These loans are provided in baht for up to 180 days.

Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates. As specified in the Subsidies Appendix, the benchmark rate for short-term loans is the most appropriate national average commercial method of short-term financing. In its response, the government of Thailand provided statistics from the Bank of Thailand on average interest rates charged by commercial banks on short-term loans, bills and overdrafts. Comparing this average interest rate to the rate charged on export credits, we find that the rate of export credits is preferential and, therefore, these loans confer bounties or grants on the products under investigation. Applying this average commercial bank rate as the benchmark, we calculate a net bounty or grant of 1.17 percent *ad valorem* for certain textile mill products and 0.65 percent *ad valorem* for apparel.

B. Rediscount of Industrial Bills

Petitioners alleged that producers and exporters of certain textile mill products and apparel receive preferential financing for raw material purchases through a rediscounting mechanism for industrial bills. According to the government response, the Bank of Thailand does authorize rediscounts for short-term promissory notes arising from industrial activity. The Bank of Thailand's "Regulations Governing the Rediscount of Promissory Notes Arising from Industrial Undertakings" permit commercial banks to rediscount short-term promissory notes for industrial purchases provided that the manufacturer issuing the short-term promissory note is creditworthy and the bank discounted the note at a rate not exceeding seven percent per annum. The seven percent rate was applicable during the period for which we are measuring bounties or grants.

The rediscount rate for these industrial promissory notes is 5 percent. As specified in the regulations, the maximum amount of the rediscount facility granted each year under this regulation is determined by the Bank of Thailand and is based on the following criteria:

- For basic industries (*i.e.*, those essential to economic development) the maximum amount of rediscount shall not exceed 90 percent of the annual operating expenses which the Bank of Thailand deems necessary for each industry;
- For industries which use local agricultural raw materials equivalent to no less than 20 percent of the total value of raw materials used, the maximum amount of rediscount shall not exceed 80 percent of the annual operating costs which the Bank of Thailand deems necessary for each industry;
- For industries which export goods equivalent to no less than 20 percent of the total value of sales, the maximum amount of rediscount shall not exceed 80 percent of the annual operating costs which the Bank of Thailand deems necessary for each industry;
- For industries using local raw materials equivalent to no less than 50 percent of the total value of raw materials used, the maximum amount of rediscount shall not exceed 70 percent of the annual operating costs which the Bank of Thailand deems necessary for each industry; and
- For industries not classified above but which are directly involved in the production process and which utilized local raw materials and local expenditures equivalent to no less than 50 percent of the total cost or in which labour represents the main factor of production, the maximum amount of rediscount shall not exceed 60 per cent of the annual operating costs which the Bank of Thailand deems necessary for each industry.

In its response, the government stated that short-term promissory notes from the following 10 industries other than textiles have been rediscounted under this facility: basic metals, metal products, non-metal products, wood, paper, rubber, chemicals, food and beverage, machinery and electrical appliances. The government also stated that during 1983, the period for which we are measuring bounties or grants, approximately 45 percent of the rediscounts under this program were provided on the short-term promissory notes of producers of all products classified as textiles in Thailand. This percentage indicates that textile producers receive a disproportionate share of these rediscountable loans. Therefore, although there does not appear to be *de jure* limitation within the program eligibility criteria, there does appear to be *de facto* limitation in the way in which the program operates. Because a significant percentage of the rediscounted short-term promissory notes are from textile producers, we preliminarily determine that the discounted notes provided to textile producers are limited to a group of industries and, thus, are countervailable if they are provided on terms inconsistent with commercial considerations. As stated in the section on "Export Credits" above, we consider that the appropriate benchmark on short-term loans is the average interest rate charged by commercial banks on short-term loans, bills, and overdrafts. The seven percent discount rate on these short-term industrial promissory notes is less than the benchmark rate. Thus, we preliminarily determine that the short-term promissory notes discounted under this program by producers and exporters of the subject merchandise confer bounties or grants because they are limited to a group of industries and are provided on terms inconsistent with commercial considerations.

To calculate the benefit from these short-term promissory notes, we must determine whether all the short-term promissory notes discounted under this program are limited to a group of

industries. To make this determination, we must examine the criteria under which the maximum amount of rediscount is authorized. As specified in the criteria, basic industries are authorized a maximum of 90 percent which is the highest rediscount level while all other industries involved in the production process, that are not specifically classified in one of the other four criteria, are authorized 60 percent. The government stated in its response that at least 10 other industries, besides textiles, have discounted short-term promissory notes under this program. Because at least 10 other industries have discounted short-term promissory notes under this program, and because the government did not specify under which criterion each industry falls, we consider that the promissory notes eligible for the 60 percent maximum rediscount are not limited to a specific enterprise or industry or group of enterprises or industries. Also, because the government of Thailand did not specify under which criterion textile producers are classified, we consider, for purposes of these preliminary determinations, that textiles are classified under the basic industries category receiving a maximum rediscount of 90 percent.

Thus, to calculate the benefit from these short-term promissory notes, we multiplied the principal of the notes by the difference between 90 percent and 60 percent, which is the level of rediscount that is not limited to a specific enterprise or industry of group of enterprises or industries. We then multiplied this amount by the difference between the benchmark rate and the seven percent discount rate to calculate a bounty or grant of 0.03 percent *ad valorem* on certain textile mill products and 0.01 percent *ad valorem* on apparel.

C. Electricity Discounts for Exporters

The three electricity authorities in Thailand provides a discount of 20 percent on the electricity rates charged to producers of export products. The discount is calculated as a credit which is deducted from each company's electric bill. Because these discounts are intended to stimulate exports, we preliminarily determine that electricity discounts for exporters confer bounties or grants on the products under investigation. We treat the discounts as grants. Applying the grant methodology outlined in the Subsidies Appendix, we calculate a bounty or grant of 2.23 percent *ad valorem* for certain textile mill products and 0.08 percent *ad valorem* for apparel.

D. Tax Certificates for Exports

Petitioners alleged that the producers and exporters of the subject merchandise receive tax certificates based on the value of their exports, which may be used to pay tax liabilities. According to the response of the government of Thailand, tax certificates for exports are issued to rebate indirect taxes on items that are physically incorporated into the exported product.

In Thailand indirect tax rebates are authorized under two programs. In 1981, a program for rebating indirect taxes was implemented through the "Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act" (hereinafter The Tax and Duty Act). The rebate rates under the Tax and Duty Act are computed on the basis of a 1975 Input/Output Study. The statistical base for the input/output study was updated in 1980. Using the input/output study, the Thai Ministry of Finance computes the value of total inputs at ex-factory prices, import values, import taxes, domestic values, and domestic taxes. The Ministry then calculates the ratio of indirect taxes to ex-factory prices to determine the rebate rate for each type of product. This rate is then applied to the FOB value of the export to determine the amount of rebate that will be provided. Under the Tax and Duty Act the rebates are paid to companies through tax certificates which can be used to pay other tax liabilities. These tax certificates can also be transferred to other companies which can use them to pay their tax liabilities. The current rebate rates on 99 covered products are listed in the "Notification of the Ministry of Finance" No. Or. 1/2524.

The second alternative program authorizing the rebate of indirect taxes is the "Announcement of the Ministry of Finance" No. Chor Phor 1/2514. This rebate authorization was announced in 1971 and was revised in 1978 by No. Or. 126/2521. The Announcement specifies that indirect taxes on materials, equipment, machinery, fuel and other energy sources will be given consideration for compensation. The government response states that under this program only indirect taxes on physically incorporated items are eligible for the tax rebate. The rebate under this program is calculated as a flat rate in baht per kilogram. The baht per kilogram rates were established in 1978 and were based on studies of the incidence of indirect taxes on textile mill products and apparel. This second program is scheduled for termination on March 30, 1985.

Currently, exporters can choose the program under which they will claim rebates of indirect taxes. After March 30, 1985, exporters will only be able to claim rebates under the Tax and Duty Act. As stated above, under the Tax and Duty Act, rates have been established for 99 products.

Under U.S. countervailing duty law, the non-excessive rebate of indirect taxes levied at the final stage, and of prior stage cumulative indirect taxes borne by inputs that are physically incorporated into the final product, is not considered a subsidy. In order to determine whether a cash payment on export is a *bona fide* rebate of indirect taxes, we examine whether: (1) The program involved operates for the purpose of rebating indirect taxes; (2) there is a clear link between eligibility for payments or exports and indirect taxes paid; and (3) the government has reasonably claculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the rebate amount paid on export.

The Tax and duty Act provides that the taxes and duties eligible for rebate include those on materials, equipment, spare parts, machinery, fuels and other energy used in production. Taxes such as income tax, payment of royalties to the government for mineral rights and taxes which are otherwise refundable or exempt are excluded from the rebate. Under the second alternative rebate program, the same general eligibility criteria apply and direct taxes such as income taxes are excluded. Thus, these two rebate programs meet our first test that the program operates for the purpose of rebating indirect taxes.

The eligibility criteria for each of these two rebate programs, when considered in conjunction with the government's response and the computations derived from the input/output study, lead us to conclude that there is a link between eligibility for the rebates and indirect taxes paid. Therefore, we preliminarily determine that our second test is met.

With respect to our third test, we have reviewed the documentation submitted by the government showing their detailed calculation of the rebate rates. These calculations itemize the inputs and list ex-factory prices, import values, import taxes, and domestic indirect taxes. The inputs itemized in the government's calculations include non-physically incorporated items such as chemicals, plastics and tools. In addition, the rebate rates specified in the calculation sheets are lower than the published list of rebate rates that

producers and exporters of the subject merchandise currently receive.

According to the response, the calculation sheets establish rates for 134 goods under the input/output classification system. The National Economic and Social Development Board of Thailand (NESDB) then converts these 134 rates into rates for 99 groups of products classified according to the Thai customs tariff nomenclature. These 99 rates are the rates that are published and which producers and exporters receive. The response states that NESDB applies an official conversion formula when converting the 134 rates into 99 rates; however, the response provides no information or examples of how this conversion formula works.

Because the tax incidence is less than the level of rebate paid and because non-physically incorporated items are included in the calculations, we preliminarily determine that there is an excessive remission of indirect taxes on exported goods. To determine the benefit from this excessive remission of indirect taxes, we have recalculated the tax incidence on physically incorporated items for each of the products exported by our selected companies for which itemized calculation sheets were provided.

In their calculation sheets, the government calculates a "full" rebate rate that includes import duties and taxes, and a "normal" rebate rate which is the rate received when firms claim customs duty exemptions or duty drawback on imported materials, or do not use imported materials in the production process. When converting from the rates on the calculation sheets to the rates actually received by producers and exporters, the government also compiles a full rate and a normal rate. For purposes of these preliminary determinations, we are basing our calculation on the full rate that includes import duties, since we are seeking additional information on whether the duty exemption and drawback programs are limited to raw materials that are physically incorporated in the exported product. (Duty exemptions and drawback are described in the section of the notice entitled "Program For Which We Need Additional Information.")

For those products produced and exported by our selected companies for which no calculation sheets were provided, we preliminarily determine that the full rate equals the amount of the excessive remission. After finding the percentage by which the level of rebate actually authorized is in excess of the allowable tax incidence on each of the products produced and exported by our selected companies, we averaged the percentages to determine a bounty or grant of 2.58 percent *ad valorem* for certain textile mill products and 1.28 percent *ad valorem* for apparel.

E. Assistance to Trading Companies

Petitioners alleged that the Board of Investments provides the following benefits to qualified international trading companies:

- Exemption of import duties and business taxes on imported materials used to produce export goods;
- Financing support from the Bank of Thailand including holding of foreign currency accounts;
- Tax holidays and accelerated depreciation; and
- Deduction from taxable income of 200 percent of foreign marketing expenses.

According to the government response, in 1978 the Board of Investments authorized certain incentives to eligible trading companies under section 36 of the Investment Promotion Act. These incentives included duty exemption for both raw materials and essential materials used in export production, exemptions of certain business taxes, double deduction of foreign marketing expenses for income tax purposes and permission to maintain foreign currency accounts. Eligibility for this program was terminated on March 11, 1981, pursuant to the Announcement of the Board of Investment No. Gnor. 1/1981. However, those trading companies that qualified for the program prior to the termination date continue to receive incentives.

According to the responses from the trading companies, the incentives which they received during the period for which we are measuring bounties or grants include export packing credits, duty exemptions on imported materials, permission to hold foreign currency accounts and the double deduction of foreign marketing expenses from income taxes. With respect to the export packing credits provided to trading companies, these loans are preliminarily determined to confer bounties or grants and are included in the calculation of the *ad valorem* rate specified in the section of the notice on "Export Credits." With respect to import duty exemptions and foreign currency accounts, we are seeking additional information in order to determine whether these incentives are countervailable (see section of the notice "Programs for Which We Need Additional Information"). With respect to the double deduction of foreign marketing expenses for income tax purposes, we preliminarily determine that this incentive is countervailable because it is intended to stimulate exports. Only one trading company claimed this double deduction. During the period for which we are measuring bounties or grants, this trading company exported only merchandise produced by the apparel manufacturers selected to respond to our questionnaire. To calculate the benefit, we determined the tax savings received during the period for which we are measuring bounties or grants. The amount of tax savings was divided by the total value of exports to determine a bounty or grant of 0.01 percent *ad valorem* for apparel.

11. Programs Determined Not To Be Used

We preliminarily determine that the selected manufacturers, producers or exporters in Thailand of certain textile mill products and apparel do not use the following programs which were listed in our notice of initiation.

A. Investment Promotion Act

The Investment Promotion Act (B.E. 2520) of 1977 provides incentives for investment to promote development of the Thai economy. Administered by the Board of Investment, the Investment Promotion Act authorizes the exemption of import duties and certain taxes. Under section 35 of the Investment Promotion Act, these benefits are provided to companies located in one of four investment zones, and under section 36 of the Investment Promotion Act, certain benefits are provided to promote enterprises which export.

According to the responses of both the government and the companies, none of the producers responding to our questionnaire receive benefits under the Investment Promotion Act. Certain of the trading companies responding to our questionnaire receive incentives under section 36 of the Investment Promotion Act. These incentives are discussed in the section of the notice on "Assistance to Trading Companies."

B. Export Processing Zones

In 1979, Export Processing Zones were authorized through the "Industrial Estates Authority of Thailand Act" (B.E. 2522). According to the responses, none of the companies responding to our questionnaire are located in export processing zones and, thus, receive no benefits under this program.

C. Financing from the Industrial Finance Corporation of Thailand

Petitioners alleged that producers and exporters of the subject merchandise receive countervailable medium- and long-term loans from the Industrial Finance Corporation of Thailand (IFCT). According to the responses, none of the producers or exporters selected to respond to our questionnaire had outstanding loans from the IFCT during the period for which we are measuring bounties or grants.

III. Programs for Which We Need Additional Information

A. Customs Department Exemptions and Duty Drawback

Petitioners alleged that producers and exporters of the products under investigation are allowed exemptions from import duties, business taxes and municipal taxes on imports used in export production. According to the response of the government of Thailand, only duty exemptions on imported raw materials that are physically incorporated in the exported product are allowed. The government further states that there are no duty exemptions on imports of machinery and equipment except as authorized under the Investment Promotion Act or the Industrial Estate Authority of Thailand Act. (These two Acts are discussed above in the section entitled "Programs Preliminarily Determined Not to Be Used.")

However, under the Thai Customs Act (B.E. 2482), materials that are imported and that are used in the production, mixing, assembling, or packaging of an exported product are eligible to receive either a duty exemption or a duty drawback. In addition, under provisions established in B.E. 2469, companies can import materials under bond and obtain a bank guarantee for the duties, which is deposited with the Customs Service. The bank guarantee for the duties is returned as a drawback when the company provides documentation showing that the imported material was used in the production, mixing, assembly, or packaging of the exported finished good.

Because these eligibility criteria for duty exemption and duty drawback are not specifically limited to raw materials that are physically incorporated into the exported product, and because the government of Thailand provided no information showing how the operation of the duty exemption and duty drawback programs is limited to raw materials, we consider that we need additional information on these programs before determining whether or not they confer bounties or grants. Therefore, we will seek additional information on duty exemptions and duty drawbacks prior to making our final determinations.

B. Foreign Currency Accounts

As explained in the section "Assistance to Trading Companies," trading companies are eligible to maintain foreign currency accounts. Two of the five trading companies responding to our questionnaire maintain foreign currency accounts. At this time, we have insufficient information to determine whether the holding of foreign currency accounts is countervailable. Therefore, we will seek additional information prior to making our final determinations.

IV. Program Not in Existence

We preliminarily determine that the following program alleged in the petition is not in existence.

Loans to Finance Imports Necessary for Export Industries

According to the response of the government of Thailand, this program does not exist.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Thailand which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require an *ad valorem* cash deposit or bond for each such entry of this merchandise as follows:

Product	Ad valorem rate (percent)
Certain textile mill products	6.01
Apparel	2.03

This suspension will remain in effect until further notice.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determinations. As previously stated, we will not accept for our final determinations any statement in the response that cannot be verified.

Public Comment

In accordance with section 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 A.M. on February 12, 1985, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 5, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 17, 1984.

Appendix

List of TSUSA Codes Which Covered Thailand's Exports of Certain Textile Mill Products and Apparel to the United States in 1983.

A. Certain Textile Mill Products

Yarns

300.6026 300.6028 303.2040 303.2042 308.5500 310.0209 320.1109
310.1110 310.1135 310.4047 310.5030 310.5047 310.5049 310.9120
310.9140

Fabric

320.0008 320.0038 320.1006 320.1008 320.1038 320.1044 320.1054
320.1058 320.1092 320.2030 320.2032 320.2054 320.2092 320.3028
320.3032 320.5094 322.1092 322.2094 322.4026 322.4092 322.1038
326.2026 326.2032 326.3026 326.3032 326.3038 326.3042 326.3046
326.3094 326.6028 327.3028 327.4094 328.3026 328.3028 328.4094
335.9500 336.6447 337.9025 337.9035 338.5006 338.5035 338.5036
338.5039 338.5045 338.5046 338.5049 338.5069

Special Construction Fabrics

347.2600	347.5000	353.5042	355.0200			

Textile Furnishings

360.1015	360.1515	360.1520	360.2000	360.4825	360.4855	360.7000
360.7800	361.4500	363.0120	363.0515	363.0520	363.0525	363.3020
363.5115	363.5130	363.6015	363.8000	364.1300	365.7825	365.7865
366.1520	366.1820	366.1840	366.1865	366.1880	366.2160	366.2420
366.2460	366.2480	366.2720	366.4600	366.4700	366.6500	366.7700
366.7930	367.4500	367.6040	367.6080			

Miscellaneous

385.5500	385.6140	386.0430	386.1500	386.4000	386.5045	387.3700
389.3000	389.5000	389.6255	389.6265	727.8610		

B. Apparel

Wearing Apparel

372.1560	373.2000	373.2200	376.2430	376.2830	376.5609	376.5612
379.0220	379.0240	379.0615	379.0620	379.0630	379.0640	379.0645
379.2320	379.2360	379.2630	379.3120	379.3130	379.3140	379.3190
379.3540	379.3925	379.3940	379.3950	379.4020	379.4030	379.4040
379.4050	379.4060	379.4330	379.4615	379.4670	379.5520	379.5530
379.5540	379.5545	379.5550	379.5560	379.5565	379.6210	379.6215
379.6220	379.6230	379.6240	379.6250	379.6260	379.6280	379.6450
379.6470	379.6942	379.6992	379.7250	379.7620	379.7630	379.8735
379.8906	379.8910	379.8911	379.8915	379.8930	379.8935	379.8940
379.9010	379.9020	379.9030	379.9035	379.9040	379.9100	379.9250
379.9410	379.9515	379.9525	379.9530	379.9540	379.9550	379.9555
379.9470	379.9575	379.9580	379.9585	379.9645	379.9650	379.9825
383.0015	383.0205	383.0210	383.0215	383.0218	383.0221	383.0225
383.0233	383.0240	383.0305	383.0335	383.0350	383.0505	383.0520
383.0610	383.0615	383.0620	383.0805	383.0820	383.0835	383.0838
383.0841	383.0856	383.0860	383.1200	383.1320	383.1802	383.1803
383.1807	383.1808	383.1820	383.1841	383.1842	383.1860	383.1910
383.1925	383.1930	383.1935	383.1940	383.2005	383.2013	383.2035
383.2040	383.2050	383.2052	383.2058	383.2205	383.2210	383.2225
383.2245	383.2305	383.2310	383.2320	383.2325	383.2335	383.2340
383.2352	383.2365	383.2570	383.2575	383.2590	383.2706	383.2707
383.2708	383.2709	383.2720	383.2725	383.2730	383.2731	383.2750
383.2820	383.2835	383.2910	383.3020	383.3030	383.3040	383.3050
383.3065	383.3090	383.3405	383.3415	383.3435	383.3445	383.3448
383.3465	383.3486	383.3600	383.3770	383.4300	383.4702	383.4704
383.4705	383.4709	383.4711	383.4715	383.4720	383.4721	383.4730
383.4747	383.4749	383.4753	383.4755	383.4761	383.4763	383.4814
383.4821	383.4825	383.5035	383.5036	383.5047	383.5049	383.5050
383.5052	383.5072	383.5080	383.5082	383.5088	383.5090	383.6000
383.6200	383.6310	383.6340	383.6260	383.6271	383.7810	383.7864
383.7868	383.7872	383.7874	383.7878	383.7882	383.8002	383.8003
383.8004	383.8005	383.8043	383.8044	383.8045	383.8047	383.8070
383.8073	383.8108	383.8110	383.8114	383.8115	383.8117	383.8125
383.8135	383.8140	383.8145	383.8146	383.8160	383.8300	383.8605
383.8620	383.8645	383.8650	383.8660	383.8663	383.8667	383.8669
383.8670	383.9005	383.9010	383.9015	383.9020	383.9025	383.9030
383.9035	383.9040	383.9041	383.9050	383.9051	383.9065	383.9070
383.9071	383.9210	383.9225	383.9230	383.9235	383.9240	383.9245
383.9255	383.9265	383.9270	383.9290	383.9291	383.9525	

Gloves

704.1020	704.3220	704.3240	704.4010	704.4025	704.4055	704.4504
704.4506	704.4508	704.4555	704.8520	704.8550		

Luggage and Handbags

706.3640	706.3650	706.3680	706.3840	706.3850	706.3900	706.4106
706.4111	706.4121	706.4140	706.4150			

[FR Doc. 84-33242 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. 658]

Daniel J. O'Hara and John B. Pridmore-Smith; Order Temporarily Denying Export Privileges

In the matter of: Daniel J. O'Hara, P.O. Box 1750, 1035 East York Way, Sparks, Nevada 89431, and John B. Pridmore-Smith, a.k.a. Bramwell J. Pridmore-Smith, Malabar Fields, Daventry, United Kingdom

The Department of Commerce (the Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 368–399 (1944)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Daniel J. O'Hara, of Sparks, Nevada, and John B. Pridmore-Smith, also known as Bramwell J. Pridmore-Smith, of the United Kingdom (hereinafter collectively referred to as respondents).

The Department states that the respondents are under investigation for violating the Regulations. The Department states further that the investigation gives it reason to believe: (1) That O'Hara exported two U.S.-origin automatic projection alignment systems from the United States to Pridmore-Smith in the United Kingdom without the required validated export licenses, and (2) that Pridmore-Smith subsequently reexported that same U.S.-origin equipment from the United Kingdom to East Germany without the required reexport authorizations.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to the respondents, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (1982)),[1] and the Regulations, and to permit completion of the investigation.

Anyone who is now or may in the future be dealing with either of the above-named respondents, or with anyone who is now or may be subsequently named as a related party, in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which any respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation. II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the

[1] The authority granted by the Act terminated on March 30, 1984. The Regulations have been continued in effect by Executive Order 12470, 49 FR 13099, April 3, 1984, under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1982)).

United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations. III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with at least one of the respondents, and which are accordingly subject to the provisions of this order, are:

Annexfield Ltd., 152 Budbrooke Road, Warwick, United Kingdom
Applied Systems Methods and Technology (ASMAT), Rochford, Essex, United Kingdom
Avomair Ltd., a.k.a. Microcircuit Technology, 3 Featherby Way, Purdey's Industrial Estate, Rochford, Essex, United Kingdom
D.J. Associates with addresses at P.O. Box 1750, 1035 East York Way, Sparks, Nevada 89431, and 18 Stewart Street, Reno, Nevada 89501, and 4200 Rewana Way, E506, Reno, Nevada 89502
Drayworth Electronics Ltd., Unit 5, Budbrooke Road, Warwick, United Kingdom
Intercircuit Ltd., 52 High Street, Henley-in-Arden, Warwickshire, United Kingdom
Photomasking Services Ltd. with locations at both 52 High Street, Henley-in-Arden Warwickshire, United Kingdom, and Turriff Industrial Estate Unit 5, Budbrooke Road, United Kingdom
Rexford Ltd., 138 Budbrooke Road, Warwick, United Kingdom

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding initiated against the respondents as a result of the ongoing investigation. A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon each respondent and each above-named related party.

Dated: December 14, 1984.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-33272 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held January 8, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to telecommunications equipment or technology.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: (202) 377-4217. For further information contact Mrs. Margaret A. Cornejo, (202) 377-5542.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84-33271 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-DT-M

[C-357-404]

Preliminary Affirmative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel. The estimated net bounty or grant is 22.01 percent *ad valorem* for certain textile mill products and apparel. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Argentina that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounty or grant.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Argentina." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we are changing the titles of these investigations to "Certain Textile Mill Products and Apparel from Argentina." The scope of these investigations remains the same as announced in the initiation.

If these investigations proceed normally, we will make our final determinations by March 4, 1985.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Terry Link or Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–0189 or 377–5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel. For purposes of these investigations, the following programs are preliminarily found to confer a bounty or grant:

- Post-Financing of Exports under Circular OPRAC 1–9;
- Reembolso (Tax Rebate on Exports); and
- Regional Tax Incentives.

We estimate the net bounty or grant to be 22.01 percent *ad valorem* for certain textile mill products and apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textiles and textile products. In compliance with filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Argentina of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initiated such investigations (49 FR 32641). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303(a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industries are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to U.S. industries.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Argentina in Washington, D.C., on August 24, 1984. Based on the incomplete responses to the preliminary questionnaire, we requested the government of Argentina to present the questionnaire to those producers who account for at least 60 percent of the textile mill products and apparel exported to the United States. On October 23, 1984, we presented the detailed government and company questionnaires to the government of Argentina in Washington, D.C. The responses to our detailed questionnaires were received on November 27, 1984. Three textile mill product producers and exporters, and no apparel producers or exporters responded to the detailed questionnaire. Consequently, we are using the best information available to calculate the estimated bounty or grant on textile mill products and apparel.

Certain respondents in the *Textile Mill Products and Apparel* investigations have raised the issue as to whether petitioners have standing to file these cases. We have addressed this issue in our preliminary determinations of *Certain Textile Mill Products and Apparel from Indonesia*, published concurrently with this notice. See the notice for our comments on the issue of petitioners' standing.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel which are described in Appendix A, that is attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition and the response to our questionnaires, we preliminarily determine the following:

I. Programs Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel under the following programs.

A. Post-Financing of Exports Under Circular OPRAC 1–9

On September 24, 1982, the Central Bank of Argentina established a post-financing program for exports under Circular OPRAC 1–9. OPRAC 1–9 loans are granted for up to 30 percent of the peso equivalent of the foreign currency in which the export transaction was paid. The term of the loan is 180 days. The interest rate charged on OPRAC 1–9 loans is the regulated rate used by commercial banks, as established by Central Bank Regulations. The system of financing is through the Central Bank of Argentina, which delegates the responsibility for granting the loans to intermediary banks.

In June 1982, the Central Bank of Agrentina restructured the banking and financial system. All outstanding short-term loans were refinanced under a regulated interest rate, which is set monthly by the Central Bank. During this period banks were also allowed to lend a portion of their deposits at an unregulated rate, known as the tasa libre.

During the period for which we are measuring bounties or grants, various short-term borrowing rates were available from Argentine banks. From April 1983 to July 1983 the regulated and unregulated rate were in effect. Beginning August 1, 1983, funds were no longer lent at the unregulated rate. For the months of August and September, when only the regulated rate was in effect, we used this rate alone as the benchmark. In October 1983, the acceptance rate came into use in Argentina. With this rate, a cash rich firm and a cash poor firm are matched together by the banks. The banks endorse these agreements and act as intermediaries for the transaction. From October 1983 to March 1984, the basis for the weighted-average is the regulated rate and the acceptance rate.

While the regulated rate makes up the major portion of bank lending, we do not consider that this rate alone adequately represents the national average rate for comparable alternative short-term borrowing. Because the amount of lending which can occur at the regulated rate is restricted by the Central Bank, it is likely that if a firm had to seek alternative borrowing, it could not fulfill all of its short-term export financing requirements at the regulated rate. We consider that the most likely secondary source of borrowing would be the tasa libre and acceptance rate lending.

To determine if the loans provided under the OPRAC 1–9 program constitute a bounty or grant, we compared the rate of interest charged on the OPRAC 1–9 loans with the national average commercial rate for short-term borrowing, as required in the Subsidies Appendix. In calculating a weighted-average benchmark, we have included the regulated rate, the tasa libre rate and the acceptance rate, because we felt that these rates best represent the most comparable alternative instruments to OPRAC 1–9 borrowing.

Using this weighted-average as a benchmark, we calculate a bounty or grant of 0.61 percent *ad valorem* for textile mill products and apparel.

B. Reembolso—Tax Rebate on Exports

The reembolso program was established in 1971. It authorized a refund by cash payment on export of taxes "that bear directly or indirectly" on exported products and/or their component raw materials for the purposes of promoting exports. The amount of the reimbursement is equal to a fixed percentage of the f.o.b. value of the exported merchandise. This percentage varies by product. Textile mill product and apparel producers participate in the reembolso program.

Under the Act, the non-excessive rebate of indirect taxes levied at the final stage, and of prior stage cumulative indirect taxes borne by inputs that are physically incorporated into the final product, is not considered a subsidy. With respect to such non-VAT rebates, in order to determine whether a cash payment on exports is a *bona fide* rebate of indirect taxes, we examine whether: (1) The program involved operated for the purpose of rebating indirect taxes; (2) there is a clear link between eligibility for payments on exports and indirect taxes paid; and (3) the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the rebate amount paid on export.

The reembolso program is designed to refund taxes that "bear directly or indirectly on exported products." We view taxes borne by a product as indirect, and taxes on, for example, income as direct.

Based on our review of the total tax incidence which the reembolso is designed to rebate, we are satisfied that the reembolso operates "for the purpose of rebating indirect taxes," and that it meets our first test.

In 1980, the Value Added Tax was established (Law 22.294/80) and in 1981, certain minor taxes were suspended (Law 22.374/81). As a result of these modifications to the Argentine tax system, the government studied the fiscal incidence of taxes in order to reevaluate the levels of the reembolso. We received four fiscal incidence sutdies prepared by the government of Argentina on cotton yarns, wool cashmere fabric, towels, and wool apparel. For purposes of these investigations, we are using the highest reembolso rate, provided in the wool apparel study, as the best information available. The study provides a sufficient basis for our preliminary determinations that there is a clear link between eligibility for the reembolso and indirect taxes paid.

In calculating the allowable tax incidence in the domestic and imported raw materials categories, we only included those indirect taxes levied at prior stages of production that apply to physically incorporated inputs.

In the domestic raw material category, we preliminarily determine that the government of Argentina did not adequately document the tax incidence on physically incorporated raw materials in the wool apparel study. Consequently, we allowed zero percent for wool apparel.

Since taxes on indirect expenses do not meet the physical incorporation test we are disallowing the amounts claimed on these items.

There is an incidence of taxes on labor; however, these taxes are direct taxes. We have, therefore, disallowed these amounts.

The fiscal incidence study on wool apparel included taxes having a direct bearing on this product. From the information provided in the government of Argentina response, we preliminarily determine that these indirect taxes meet our test of physical incorporation. Based on this standard, we allow a tax incidence of 1.50 percent on wool apparel.

The last tax included in the fiscal incidence study is export taxes. We have allowed the amount claimed for export taxes because they are final stage indirect taxes. The government of Argentina calculated the rate and incidence of each tax for this product. Therefore, the allowable incidence of this tax is 2.10 percent on wool apparel.

The total tax incidence calculated in the wool apparel study was 25.00 percent. Of the total tax incidence, we allowed 3.60 percent.

To calculate the amount of the benefit we deducted the allowable indirect and final stage taxes from the reembolso rate. If the difference is positive, the reembolso confers a bounty or grant equal to this overrebate. If the difference is negative, no overrebate has occurred and thus no countervailable benefit is conferred by the reembolso. Consequently, we preliminarily determine that the reembolso confers a bounty or grant of 21.40 percent *ad valorem* on textile mill products and apparel.

C. Regional Tax Incentive—Exemption from the Stamp Tax

Under Law 17010 and Decree 2102/69, as amended by Law 19614, companies located in the Tucaman Province are exempted from the stamp tax on business contracts for up to 10 years. One of the companies that responded to the questionnaire stated that it used this program. Because this program is limited to companies in a specific region, we preliminarily determine that it provides a countervailable benefit to the products under investigation.

The company provided no information with which we could calculate their actual benefit, so we are using best information available. To calculate the benefit, we have multiplied the 1 percent stamp tax rate by the change in assets and liabilities between 1983 and 1982. We then allocated this benefit over total sales for the three companies. On this basis, we preliminarily determine that this program provides a bounty or grant of 0.002 percent *ad valorem* on textile mill products and apparel.

II. Programs Determined Not To Confer Bounties or Grants

We primarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel under Circular RF-153.

Circular RF-153 (Prefinancing of Exports)

This program was authorized under the Central Bank Circular RF/153. Exporters, under this program, receive pre-export financing through peso loans equal to 60 percent of the export sale's f.o.b. value. The loans are given in pesos but denominated in U.S. dollars at the exchange rate prevailing at the time of the loan. Repayment must also be in pesos, but the peso amount is established by the exchange rate prevailing at the time of repayment. In addition to repaying the peso amount of the loan at the exchange rate prevailing at the time of repayment, the borrower also must pay a one-percent interest rate. The funds are drawn from the Central Bank of Argentina and then loaned through private commercial banks to individual corporate borrowers. The maximum length of the loan is 120 days, but repayment must take place no later than 60 days from the effective export date.

We compared the cost for these loans with what the firms would have paid commercially for the same loan, using as the benchmark the weighted average of the regulated rate, the tasa libre rate and the acceptance rate. We found no benefit. Therefore, we preliminarily determine that this program does not confer a bounty or grant.

III. Programs Determined Not To Be Used

We preliminarily determine that manufacturers, producers, or exporters in Argentina of certain textile mill products and apparel did not use the following programs which were listed in our notice of initiation.

A. Incentives for Exports from Southern Ports

Petitioners alleged that manufacturers, producers and exporters of textile mill products and apparel receive incentives for exports from southern Argentine ports. The government of Argentina responded in its questionnaire response that due to their geographic location the manufacturers, producers and exporters of the products subject to this investigation are ineligible under this program.

B. Tax Reductions for Investors

Petitioners alleged that manufacturers, producers and exporters of textile mill products and apparel have benefitted under Decree No. 2332/83, which grants tax benefits to inventors in Patagonian corporations. The government of Argentina stated in its response that due to their geographic location, investors in firms subject to this investigation are not eligible for benefits under this program.

C. Refund on Patagonian Exports

Petitioners alleged that exports originating from Patagonia qualify for a refund if they originate in, or are exported from, Patagonia. The government of Argentina replied in its response that because of their geographic location the manufacturers, producers and exporters of textile mill products and apparel are ineligible for benefits under this program.

D. Industrial Parks

Petitioners alleged that firms which operate in designated industrial parks receive special credit from local banks, tax exemptions and infrastructure benefits. The government of Argentina reported that the firms under consideration in this investigation are not eligible for this program.

E. Low Cost Loans for Projects Outside Buenos Aires

Petitioners allege that manufacturers, producers and exporters of textile mill products and apparel benefit from government mandated medium- and long-term loans under the 1977 Industrial Promotion Law for Projects Outside Buenos Aires. The companies which responded to our questionnaire stated that they did not receive benefits under this program.

F. Regional Tax Incentives

Under Law 17010 and Decree 2102/69 the government of Argentina established the following tax incentives that were subsequently amended by Law 19614. This program is limited to companies located in the Tucuman Province.

1. Elimination or reduction of the amount due in income tax or the substitution tax for the tax on the free transfer of goods, decreasing every year for ten years. Since the company which is eligible for this benefit did not pay taxes in 1983, we preliminarily determine that this program is not used.

2. Exemption of the substitution tax on the free transfer of goods for five years from the approval date. Because the plant eligible for this program began operations in 1973, we preliminarily determine that the company could not have used this program in 1983.

3. Exemption for seven years, on a decreasing scale, of the amount due for sales taxes and other substitution taxes (value-added tax), for products manufactured in that Province. Because the company in the Tucuman Province began operations in 1973, we preliminarily determine that the company is not any longer eligible to receive benefits from this program.

4. Exemption of import duties for special tools and prototypes. The company eligible for this program stated that it did not use this program.

5. Tucuman Provincial exemption from the Stamp Tax for five years. The company located in this region began operations in 1973, therefore, we preliminarily determine that the company is no longer eligible to receive benefits under this program.

6. Tucuman Provincial exemption from the retributory rates for services of

an administrative nature for five years. The company located in this region began operations in 1973, therefore, we preliminarily determine that the company is no longer eligible to receive benefits under this program.

IV. Program for Which Additional Information Is Needed

Regional Tax Benefits

Under Law 17010 and Decree 2101/69, as amended by Law 19614, the government of Argentina established the following tax incentives that are limited to companies in the Tucuman Province.

1. Exemption of import duties and other duties for the importation of new capital goods and up to five percent of the duties for parts. We have requested further information on this program.

2. Law 3883, which is addition to the above laws, grants a benefit of 90 percent of the amounts to be paid for the exemption of the Real Estate Tax, Public Health and Lucrative Activities for ten years, decreasing by year. We have requested additional information on this program.

IV. Programs Determined To Have Been Suspended

A. Income Tax Exemptions for Exports

Petitioners alleged that manufacturers, producers and exporters of textile mill products and apparel in Argentina benefit from an income tax exemption for exports. The government of Argentina states that this program was terminated as of June 30, 1980, and, therefore manufacturers, producers and exporters can not benefit from this program.

B. Regional Tax Incentive

For investors, up to December 31, 1980, there was a deduction of income up to 70 percent of the amount invested. The government of Argentina responded that this program has been terminated.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determinations. As previously stated, we will not accept any statement in the response that cannot be verified in our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Argentina which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require an *ad valorem* cash deposit or bond for each such entry of this merchandise in the amount of 22.01 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on February 7, 1985, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 1, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671(f)).

Dated: December 17, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A

Imports of Certain Textile Mill Products and Apparel From Argentina in 1983 Subject to the Petition; Tariff Schedule Numbers of Imports Subject to Investigations.

A. Textile Mill Products

Yarns

301.0000	301.1000	301.2000	301.3000	302.0024	302.1020	302.1024
302.1026	302.2020	302.2024	302.3022	302.3026	303.2042	307.6810
307.6850						

Fabrics

323.1092	335.9500	336.6247	336.6249	336.6251	336.6253	336.6255
336.6257	336.6441	336.6447	336.6451	337.9035	338.1530	338.1570
338.5021	338.5048					

Special Construction Fabrics

346.6065						

Textile Furnishings

366.2420		366.2440		366.2460		366.2780

Miscellaneous

385.5500	385.6120	388.4800	389.6265	390.4000		

B. Apparel

Apparel

372.7540	374.2500	374.3530	374.6500	376.2830	379.0640	379.0645
379.4050	379.4060	379.4670	379.5550	379.6240	379.9030	379.9035
379.9540	379.9585	383.0206	383.0233	383.0306	383.0335	383.0350
383.0390	383.0610	383.0805	383.0844	383.0855	383.1000	383.1320
383.1620	383.1920	383.2005	383.2016	383.2050	383.2709	383.2720
383.2725	383.2730	383.2750	383.3465	383.4709	383.4747	383.4761
383.4825	383.5049	383.5090	383.5326	383.5830	383.6310	383.6330
383.6340	383.6350	383.6360	383.6371	383.6372	383.6385	383.7000
383.7210	383.7510	383.7540	383.7550	383.7560	383.7590	383.8043
383.8073	383.8125	383.8300	383.9015	383.9245		

Gloves

704.6500						

[FR Doc. 84–33257 Filed 12–20–84; 8:45 am]

BILLING CODE 3510–DS–M

[C-560-401]

Preliminary Affirmative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From Indonesia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Indonesia of certain textile mill products and apparel. The estimated net bounty or grant is 0.83 percent *ad valorem* for textile mill products and 0.636 percent *ad valorem* for apparel. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Indonesia that are entered, or withdrawn from warehouse, for consumption after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounty or grant.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Indonesia." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel products, and one of apparel. Because of the potential for confusion, we are changing the title of these investigations to "Certain Textile Mill Products and Apparel from Indonesia." The scope of these investigations remains the same as announced in the initiation notice.

If these investigations proceed normally, we will make our final determinations by March 4, 1984.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-5050 or 377-1769.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Indonesia of certain textile mill products and apparel. For purposes of these investigations, the following programs are preliminarily found to confer a bounty or grant:

- Preferential Short-Term Financing for Non-Oil Exports
- Tax Holidays, Accelerated Depreciation, and Other Tax Benefits
- Import Duty Exemptions for Capital Equipment

We estimate the net bounty or grant to be 0.83 percent *ad valorem* for textile mill products and 0.636 percent *ad valorem* for apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute (ATMI), the Amalgamated Clothing and Textile Workers Union (ACTWU), and the International Ladies' Garment Workers Union (ILGWU), on behalf of the U.S. industries producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Indonesia of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 9, 1984, we initiated such investigations (49 FR 32642). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Indonesia is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303(a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to U.S. Industries.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Indonesia in Washington, D.C., on August 27, 1984. Based on the responses to the preliminary questionnaire, we requested detailed responses from those producers who account for at least 60 percent of the textile mill poducts and apparel exported to the United States. We selected 2 textile mill producers and exporters, and 14 apparel producers and exporters to respond to the detailed questionnaire. On October 25 and November 1, 1984, we presented the detailed government and company questionnaires to the government of Indonesia in Washington, D.C. The responses to our detailed questionnaires were received on November 26, 1984.

Sanding of Petitioners

Subsequent to our initiation of the instant investigations and twelve other investigations of textiles and textile products on the basis of petitions filed by the same petitioners, we received objections to the initiations from a number of respondents.

Respondents requested that we rescind the initiation of these investigations on the ground that petitioners lack standing to file countervailing duty petitions, because they failed to demonstrate either that they are an "interested party" as to each of the numerous products covered by the petitions or that the petitions were filed "on behalf of" each of the industries producing those products. The Department may rescind an initiation of an investigation where it subsequently discovers that the petitioner lacks standing with respect to the products under investigation. *Gilmore Steel Corp. v. United States*, 585 F. Supp. 670 (Ct. Int'l Trade 1984).

With respect to ACTWU and ILGWU, a certified or recognized union is an "interested party" if it is "representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product" [19 U.S.C. 1677(9)(D)]. With respect to ATMI, a trade or business association is an "interested party" if "a majority of [its] members manufacture, produce, or wholesale a like product in the United States" [19 U.S.C. 1677(9)(E)]. "Industry" is defined generally as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product" [19 U.S.C. 1677(4)(A)]. Thus, petitioners' standing depends upon the definition of "like product." "Like product" is defined in 19 U.S.C. 1677(10) as "* * * a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

Petitioners have contended that all of the various types of products under investigation constitute one type of merchandise with respect to which petitioners acquire standing by virtue of their production of a wide range of textiles and textile products in the United States as a whole, and that an analysis of standing in terms of a narrower definition of "like product" is unwarranted. Under petitioners' approach, a handbag would be a "like product" to an imported blouse. We do not agree with this interpretation of "like product." Therefore, in order to resolve the standing issue raised by respondents, the Department, in consultation with its industry experts, compiled a preliminary list of the various categories of products under investigation, and requested petitioners to provide additional information to establish either that a majority of ATMI members produce each "like product" or that the unions are representative of an industry producing each "like product."

In response to our request, ATMI, which alleged originally that it is an interested party as to all textiles and textile products except apparel, failed to establish that a majority of its members produce each of the enumerated like products. Moreover, ATMI provided no listing of its membership or the products produced by its members that would enable the Department to determine whether a majority of its members produce each of the like products. Accordingly, we determine that ATMI lacks standing as a petitioner in these investigations, because it has not established that it is an interested party with respect to any of the products covered by the investigations.

Absent any other information, we would have rescinded our investigations as to textiles and textile products, other than apparel. However, the petition was amended to name as petitioners eight ATMI jmember companies:

- Belton Industries, Inc., of Belton, South Carolina;
- Burlington Industries, Inc., of Greensboro, North Carolina;
- Chatham Manufacturing Company of Elkin, North Carolina;
- Milliken & Company of Spartanburg, South Carolina;
- Mount Vernon Mills, Inc., of Greenville, South Carolina;
- Shuford Mills, Inc., of Hickory, North Carolina;
- J. P. Stevens & Co., Inc., of New York, New York; and
- West Point-Pepperell, Inc., of West Point, Georgia.

These eight companies collectively appear to satisfy the interested party requirements of the Act, because at least one company is a "manufacturer, producer, or wholesaler in the United States" of a product like each of those (other than apparel) covered by the investigations [19 U.S.C. 1677(9)(C)]. In addition, ATMI has stated its continuing support for the petitions, as amended. Because ATMI members account for over 85 percent of the textiles and textile products produced in the United States, and because, until quite recently, no other U.S. producers have indicated opposition to the petitions, we are unable to find that the petitions, as amended, are not filed "on behalf of" the U.S industries producing the various like products.

With respect to the standing of the unions, ACTWU and ILGWU have indicated that workers represented by one or both unions are engaged in the production of each of the apparel like products. The two unions collectively represent over 650,00 workers engaged in the production of textiles and apparel. Until quite recently, no workers, groups of workers, or other industry representatives have indicated opposition to the petitions or that the unions are not representative of the industries producing the like products covered by these investigations. Therefore, we are unable to determine at this time that the unions have not filed "on behalf of" the U.S. industries producing the various apparel like products.

As suggested above, the Department recently has received letters from various U.S. producers of textiles and textile products opposing the petitions. The Department has not yet been able to assess the extent to which this opposition contradicts petitioners' claims that they have filed "on behalf of" U.S. industries. The Department will continue to examine this question, but at present the Department considers the eight companies and the unions to be legitimate petitioners.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel, which are described in the Appendix to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition and the response to our questionnaires, we preliminarily determine the following:

I. Programs Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Indonesia of certain textile mill products and apparel under the following programs.

A. Preferential Short-Term Financing for Non-Oil Exports

Petitioners allege that Indonesia's state-controlled banks provide short-

term credits to exporters of non-oil goods at preferential interest rates.

In its response, the government of Indonesia outlined the two export credit schemes that were available to exporters in Indonesia during the review period.

Prior to June 1983, Indonesian banks (both state-owned and private banks) charged a designated interest rate for export credits of 9 percent per annum for "strong" export commodities and 6 percent per annum for "weak" export commodities. The determination as to which commodities were "strong" and "weak" was made by the Ministry of Trade, based on its view of the strength of the market for each particular commodity. The company responses indicate that all short-term credits received by the respondents before June 1, 1983, carried an interest rate of 6 percent. Counsel for the government of Indonesia confirmed that textile mill products and apparel were considered as "weak" commodities.

Since June 1, 1983, Indonesian state banks and private banks have offered working capital export credits to domestic companies exporting commodities and goods other than oil or gas products. To whom and at what interest rates such credits are granted is at the discretion of the lending institution, based on commercial considerations such as the creditworthiness of the borrower, the cost of money to the bank, the liquidity position of the bank and its desired rate of return. The maximum amount of credit is 85 percent of the f.o.b. price of the exported merchandise. At the time an export sale is consummated, the lender refunds to the borrower any interest charged in excess of 9 percent per annum. In addition to payment of interest, the borrower pays a charge of 1.1 percent of the principal amount of the loan at the time the credit is granted (0.1 percent commitment fee plus 1 percent provision); a 1.1 percent charge is payable upon each extension of the loan term.

Since receipt of both working capital export credits (before June 1, 1983) and interest rate rebates (since June 1, 1983) are contingent upon export performance, and provide funds to borrowers at interest rates lower than those available from commercial sources, we preliminarily determine that they confer a countervailable benefit upon certain textile mill products and apparel from Indonesia. To calculate the amount of the benefit, we applied two different methodologies. In the case of credits received prior to June 1983, we used as our benchmark the interest rate charged by state banks for short-term credits to non-favored industries, as reported in Bank Indonesia's *Indonesian Financial Statistics* (June 1984). We then calculated the amount of the benefit using our short-term loan methodology. In the case of credits bestowed after June 1, 1983, we expensed the rebate amounts received over export sales of the subject merchandise from Indonesia. We calculated a net bounty or grant of 0.83 percent for textile mill products and 0.565 percent for apparel.

B. Tax Holidays, Accelerated Depreciation, and Other Tax Benefits

Petitioners allege that, under the Corporation Tax Ordinance of 1925 (CTO), the Indonesian Ministry of Finance grants a variety of tax benefits to specially designated investments in certain "priority" industries, as defined by the Badan Koordinasi Penanaman Modal (BKPM, or Investment Coordinating Board), which include the textile mill products and apparel sectors. These tax benefits, which may vary depending on a given firm's level of export earnings or import savings, allegedly comprise: (1) A two-year holiday from the corporate tax; (2) accelerated depreciation on capital investments for four years after the expiration of the holiday period; (3) exemptions from the capital stamp duty and dock clearance tax; and (4) a tax reduction for up to 20 percent of the amounts of capital invested in any one year.

Petitioners further allege that, under Government Regulation No. 2/1981 (GR–2), the Ministry of Finance provides additional tax relief to companies that earn "substantial" foreign exchange from exports. Such relief allegedly includes: (1) An exemption of as much as 100 percent from the corporate profits tax for up to 10 years, and (2) a 50 percent reduction of the corporate dividends tax for up to 10 years.

In its response, the government of Indonesia stated that, prior to January 1, 1984, various tax programs were available to producers and exporters of certain textile mill products and apparel, among others. These programs were jointly administered by the Ministry of Finance and BKPM under the provisions of the CTO, Foreign Investment Law No. 1 of 1967 (as amended by Law No. 11 of 1970), and Domestic Investment Law No. 6 of 1968. GR–2 was never implemented and, in fact, became moot with the enactment of new tax legislation on December 31, 1983.

According to the government of Indonesia, tax benefits were provided under the legislation cited above to companies whose name appears on one of two priority lists called Daftar Skala Prioritas (DSP). One DSP list governs domestic investment and the other foreign investment in Indonesia, because certain fields of vital national interest are closed to foreign investment. The DSP lists provide for a wide array of tax benefits, including tax holidays, exemption from capital stamp duties, exemption from the corporation tax, investment allowances against the corporation tax, and accelerated depreciation. An industry sector becomes eligible for inclusion in the DSP lists if it appears that investment in that sector is consistent with the government of Indonesia's long-term economic objectives, which are to expand the national economy, create job opportunities, spread development efforts throughout the country, encourage equitable distribution of the proceeds of development, and accumulate foreign exchange. Because these objectives are so broad, the government of Indonesia claims, these criteria apply to essentially every industry in Indonesia, thereby making these benefits available to more than a specific industry or group of industries.

However, examination of the DSP lists reveals that they contain certain elements of preferentiality in that the type and level of benefits available to the industries listed therein appear to vary widely depending on: (1) The industry involved, (2) whether the investment is for a new project or the expansion of an old one, (3) whether the investment is located outside the island of Java, or (4) whether the investment was given special priority consideration by the government of Indonesia.

The foregoing considerations lead us to believe at this time that the various tax benefits provided under the CTO and its amending legislation are not, in fact, generally available, but rather are limited to certain industries in certain regions. Accordingly, we preliminarily determine that these tax benefits confer a bounty or grant upon the manufacture and exportation of certain textile mill products and apparel in Indonesia.

During the review period, one apparel manufacturer received an exemption from the corporate income tax. We treated the amount of corporate income tax the company would normally have paid in 1983 as a grant, and expensed it over the value of sales of apparel by the respondents in 1983. We thereby calculated a net subsidy of 0.052 percent for apparel.

C. Import Duty Exemptions for Capital Equipment

Petitioners allege that producers of certain textile mill products and apparel

in Indonesia benefited from waivers or reductions of import duties and sales taxes on certain machinery, equipment, and raw materials.

The government of Indonesia stated in its response that, under the tax programs described in section I.B above, three apparel manufacturers were exempted from payment of duties on imported raw materials, and one apparel manufacturer was exempted from payment of duties on imported capital equipment. As stated above, we preliminarily determine that the various benefits granted under the CTO and its succeeding legislation confer bounties or grants on the merchandise under investigation. We are countervailing only the exemption of import duties on capital equipment, since the imported raw materials were physically incorporated in the merchandise. Because the exemption of import duties in question was contingent upon export performance, we treated the total amount of unpaid import duties as a grant, and expensed it over the value of exports of apparel by the respondents in 1983. We thereby calculated a net subsidy of 0.019 percent for apparel.

II. Programs Determined Not To Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Indonesia of certain textile mill products and apparel under the following programs.

A. Textile Export Incentive Program

Petitioners allege that the government of Indonesia maintains a "textile export incentive program" which provides exporters of the subject merchandise with certificates, based on the amount and type of exports, that may be redeemed for cash.

In its response, the government of Indonesia supplied the following information. The "Sertifikat Ekspor" (Export Certificate, or SE) program, which was established in 1978, is a mechanism for the rebate of import duties and taxes [import sales tax and import MPO (WAPU) withholding tax]. The legal foundation for the SE program is Article 3a of the Indonesian tariff law. The program itself was implemented by Ministry of Finance decrees 434/KMK.01/1979, 269/KMK.01/1982, and 576/KMK.05/1984.

Under the Act, the non-excessive rebate of import duties and import taxes borne by inputs that are physically incorporated into the final product, is not considered a subsidy.

The SE program is designed to refund import duties and import taxes that "bear directly or indirectly on exported products." Based on our review of the import duties and taxes which the SE program is designed to rebate, we are satisfied that the SE program operates for the purpose of rebating import duties and taxes.

Under the SE program, the government of Indonesia has undertaken to analyze the physically incorporated imported inputs for a number of industrial products exported from Indonesia. For each product, the government has determined the amount of each imported input physically incorporated into each unit of output and the world market price of each input. The world market price becomes the "import check price." The actual import levies paid by the importers are assessed on the basis of the import check price or the invoice price for the imported goods, whichever is higher. The government of Indonesia also calculated the minimum import levies which would be paid for each unit of output of each of the industrial products studied. It then established an "export check price" for each product, based on the value of both imported and local inputs plus salary, overhead, depreciation, interest, and profit. Having done this, the government of Indonesia was able to express the total minimum import levies for each product as a percentage of the export check price. Exporters could then apply for export certificates qualifying them for rebates in the amount of the percentage of the export check price.

No product is eligible for a rebate under the SE program unless the full analysis described above is performed. In 1978, and also in 1980, the government of Indonesia undertook studies of the inputs into exported textile mill products and apparel. In 1980 the percentages of export check prices eligible for rebate under the SE program were revised downward to reflect the lower level of imported inputs and the lower minimum amount of import levies borne by exported products. In conjunction with the general study conducted in 1978, the 1980 review sufficiently demonstrates that there is a clear link between eligibility for the SE program and import levies paid.

In its questionnaire response, the government of Indonesia stated that it continuously monitors the operation of the SE program to ensure that no product receives a rebate greater than the total amount of levies paid with respect to inputs that are physically incorporated into the product. When an importer modifies a product so that it uses fewer physically incorporated imported inputs than those on which the SE rebate for the original product was based, the government of Indonesia creates a new product category, analyzes the imported inputs and the minimum value of import levies applicable, sets a new export check price, and calculates the percentage of the export check price eligible for rebate. The government of Indonesia claims that it has identified several hundred different categories of textile and apparel categories, and that individual input analyses have been performed for each such category. In its response, the government of Indonesia has provided sample input analyses for three major product categories: men's polyester cotton shirts, men's 100-percent cotton shirts, and men's and women's 100-percent cotton denim jeans.

The government of Indonesia maintains that although import check prices are established for physically incorporated inputs, import check prices serve only as floors for the assessment of import levies in each separate import transaction. If an input is imported at a price lower than the import check price, it is the check price on which import levies are paid. If, on the other hand, the input is imported at a price higher than the import check price, it is the actual import price on which import levies are based. However, rebates are paid on the basis of the import check price only, even if the actual levies paid are higher. The SE rebate percentage is based on the minimum amount of import levies payable on the imported inputs which are physically incorporated into a product. This percentage is applied to the export check price—not the invoice price—in determining the rebate to be paid on any given export shipment. Therefore, the SE program ensures that the rebate received by an exporter can never be greater than the total amount of duties and taxes paid for imported materials physically incorporated into the product.

Based on the foregoing, we believe that the government of Indonesia has reasonably calculated the import duties and import taxes on physically incorporated raw materials, and has demonstrated that the import duties and import taxes paid are linked to the rebate paid on export. Accordingly, we preliminarily determine that the SE program does not confer a countervailable benefit upon certain textile mill products and apparel from Indonesia.

B. Medium- and Long-Term Financing

Petitioners allege that medium- and long-term financing from state banks at preferential interest rates is available to

Indonesian firms in priority industry sectors, including textile mill products and apparel. Petitioners believe that subsidized medium- and long-term loans are made available to the industries producing textile mill products and apparel in Indonesia under the Domestic Investment Law and by two leading financial institutions, Bank Pembangunan Indonesia (BAPINDO, or Development Bank of Indonesia) and P.T. Usaha Pembiayaan Pembangunan Indonesia (UPPINDO), also known as the Indonesian Development Finance Company (IDFC).

In its response, the government of Indonesia states that no financing had ever been provided under the Domestic Investment Law, and that both BAPINDO and UPPINDO extend medium- and long-term loans to all sectors of the Indonesian economy on equal terms. Therefore, we preliminarily determine that medium- and long-term loans confer no countervailable benefits upon certain textile mill products and apparel from Indonesia.

C. Free Trade Zones

Petitioners allege that companies located in a free-trade zone in Jakarta benefit from export incentives in the from of a five-year exemption form the corporate tax, capital tax, stamp duty, and tax on dividends, as well as exemptions from import duties on materials and capital equipment.

The government of Indonesia stated in its response that the Jakarta Export Processing Zone (JEPZ) is managed by P.T. Bonded Warehouse Indonesia (P.T. BWI), a private commercial venture. P.T. BWI offers no financial assistance to companies located in the zone; any services it offers are paid for on a commercial, cost-covering basis. The government of Indonesia stated that firms located in the zone receive no incentives, and no exemptions from, or reductions of, taxes and duties, that are not equally available to firms outside the zone. Because of the special customs status of the zone, however, exemption from import duties is available to firms in the zone without prior approval from governmental authorities; by contrast, firms located outside the zone must obtain prior government approval in order to receive such an exemption.

It appears, therefore, that the only benefit an exporter of textile mill products or apparel located in the JEPZ receives is a waiver of the process for securing an exemption from input duties.

We are aware of any reasonable methodology to quantify any benefit presumed to arise from not having to apply for import duty exemptions. Therefore, we conclude that because any attempt to quantify the benefit would be arbitrary and capricious, location in the Jakarta Export Processing Zone does not confer a bounty or grant upon certain textile mill products and apparel from Indonesia.

D. Industrial Estates

Petitioners allege that a number of "industrial estates" in Indonesia offer their tenants preferential terms on land acquisition, building permits, site formation, and other infrastructure and facilities.

In its response, the government of Indonesia stated that only one such estate, the Jakarta Pulogadueng Industrial Estate (JIEP), includes a producer and exporter of textile mill products and apparel. JIEP is managed by P.T. Jakarta Industrial Estate Pulogadueng (P.T. JIEP), a consistently profitable commercial venture. According to the government of Indonesia, P.T. JIEP provides no financial assistance of any kind to firms located in the JIEP. Indeed, tenants pay premium prices in order to enjoy the facilities offered by the JIEP.

In light of the foregoing, we preliminarily determine that location in an industrial estate does not confer a countervailable benefit upon certain textile mill products and apparel from Indonesia.

E. Government Investment in Fiber Mills

Petitioners allege that the government of Indonesia may have made equity investments in the fiber industry, such as synthetic fiber spinning mills and other textile producing plants, on terms inconsistent with commercial considerations. Petitioners believe that these investments confer countervailable benefits on firms in which the government of Indonesia has an ownership interest.

In its response, the government of Indonesia stated that it has no ownership interest in any of the companies under investigation; therefore, the allegation is moot. Accordingly, we preliminarily determine that government investment in fiber mills does not confer a countervailable benefit upon certain textile mill products and apparel from Indonesia.

III. Program Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Indonesia of certain textile mill products and apparel did not use the following program which was listed in our notice of initiation.

Incentives for Companies With Publicly Held Stock

Petitioners allege that at least three publicly held fiber and textile companies have received benefits under the government of Indonesia's incentive program for publicly held companies.

In their responses, both the government of Indonesia and the individual respondents denied that any company under investigation was publicly held and had benefited from any such incentives.

Accordingly, we preliminarily determine this program was not used by the manufacturers or exporters of certain textile mill products and apparel in Indonesia.

IV. Program for Which Additional Information Is Needed

Export Countertrade (Counterpurchase) Program

Petitioners allege that the government of Indonesia maintains an export countertrade (or counterpurchase) program, under which foreign suppliers of, and contractors with, Indonesian government agencies are required to purchase certain quantities of Indonesian goods, including textile mill products and apparel.

In its response, the government of Indonesia stated that the counterpurchase program, which is administered by the Ministry of Trade, requires certain foreign suppliers with which the government of Indonesia has entered into procurement contracts exceeding Rp 500 million in value to purchase for export commodities other than oil and gas in an amount equal to that of the procurement contract. The government of Indonesia stated further that it provides no financial assistance in support of purchases made under the countertrade program, and plays no part in setting the prices or establishing the terms of any purchases made under the program. All purchase agreements are made directly between the buyer and the seller.

In their responses, the companies under investigation all denied any involvement in the Indonesian counterpurchase program. Because the government of Indonesia has not yet provided us with a complete listing of all transactions made under this program, we are unable at present to determine whether this program was actually used by manufacturers or exporters of certain textile mill products and apparel in Indonesia. We will seek to obtain additional information concerning this program during verification.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. As previously stated, we will not accept any statement in the responses that cannot be verified in our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel from Indonesia which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require an *ad valorem* cash deposit or bond for each such entry of this merchandise as follows:

Product	Ad valorem rate (percent)
Textile mill products	0.830
Apparel	0.636

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 2:00 p.m. on February 15, 1985, at the U.S. Department of Commerce, room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B–099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 8, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act [19 U.S.C. 1671b(f)].

Dated: December 17, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix

List of TSUSA Codes Which Covered Indonesia's Exports of Certain Textile Mill Products and Apparel to the United States in 1983

A. Textile Mill Products

Yarns & Threads

310.0250 310.5049

Fabrics

320.0001 320.0002 320.0003 320.0036 320.0038 320.1038 322.1084
322.3032 322.3094 322.4092 322.4094 322.5092 322.8094 325.8092
326.1058 326.3026 326.3032 326.3092 332.4040 338.5021 338.5024
338.5032 338.5035 338.5036 338.5039 338.5064 338.5069

Special Construction Fabrics

347.3380

Textile Furnishings

361.4500 363.4500 363.5115 365.7825 365.7865 366.2740 366.2780
366.4600 366.4700 366.7925 366.7930 727.8630

Luggage and Handbags

706.3400 706.3640 706.3650 706.3680 706.4106 706.4111 706.4140
706.4150

Miscellaneous

386.1500 386.4000 386.5045 389.3000 389.7000

B. Apparel

Wearing Apparel

372.1060 372.1540 372.1560 372.2000 372.7000 372.7520 378.1540
379.0220 379.0620 379.0640 379.0645 379.0810 379.2350 379.2630
379.3120 379.3940 379.4010 379.4020 379.4040 379.4050 379.4330
379.4630 379.4640 379.4650 379.4660 379.4670 379.5210 379.5220
379.5510 379.5520 379.5525 379.5530 379.5535 379.5540 379.5545
379.5550 379.5560 379.5565 379.5800 379.6210 379.6220 379.6230
379.6240 379.6250 379.6470 379.8915 379.9025 379.9030 379.9040
379.9250 379.9530 379.9535 379.9540 379.9545 379.9550 379.9555
379.9570 379.9575 379.9580 379.9585 379.9641 379.9650 379.0215
383.0221 383.0225 383.0250 383.0260 383.0265 383.0305 383.0335
383.0355 383.0505 383.0506 383.0520 383.0610 383.0611 383.0615
383.0616 383.0620 383.0630 383.0805 383.0835 383.0838 383.0841
383.0856 383.0859 383.0860 383.1305 383.1802 383.1803 383.1807
383.1820 383.1841 383.1910 383.1915 383.1920 383.1925 383.1930
383.2005 383.2013 383.2014 383.2020 383.2025 383.2035 383.2040
383.2050 383.2052 383.2058 383.2060 383.2205 383.2210 383.2215
383.2225 383.2230 383.2235 383.2240 383.2245 383.2250 383.2305
383.2315 383.2320 383.2325 383.2330 383.2335 383.2340 383.2350
383.2352 383.2354 383.2356 383.2360 383.2365 383.2535 383.2550
383.2590 383.2707 383.2708 383.2709 383.2720 383.2725 383.2730
383.2731 383.2815 383.2830 383.2835 383.2910 383.3030 383.3040
383.3060 383.3080 383.3090 383.3200 383.3430 383.3435 383.3445
383.3446 383.3448 383.3450 383.3460 383.3465 383.3466 383.3770
383.4015 383.4300 383.4702 383.4704 383.4705 383.4707 383.4709
383.4711 383.4715 383.4720 383.4721 383.4730 383.4747 383.4749
383.4753 383.4755 383.4761 383.4763 383.4765 383.4821 383.4825
383.4900 383.5030 383.5035 383.5036 383.5039 383.5049 383.5050
383.5062 383.5072 383.5078 383.5082 383.5084 383.5086 383.5088
383.5090 383.5295 383.5395 383.6371 383.7882 383.8002 383.8003
383.8004 383.8005 383.8043 383.8044 383.8045 383.8047 383.8070
383.8073 383.8115 383.8135 383.8145 383.8160 383.8605 383.8620
383.8635 383.8645 383.8660 383.8663 383.8669 383.8670 383.8810
383.9005 383.9010 383.9015 383.9020 383.9025 383.9030 383.9050
383.9051 383.9060 383.9065 383.9070 383.9210 383.9220 383.9225
383.9235 383.9240 383.9245 383.9255 383.9267 383.9270 383.9276
383.9290 383.9291

Headwear

702.1400

Gloves

704.4010 704.4025 704.4504 704.4506 704.4508 704.5015

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[C-333-402]

Preliminary Affirmative Countervailing Duty Determination; Certain Textile Mill Products From Peru; Preliminary Negative Countervailing Duty Determination; Certain Apparel From Peru

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Peru of certain textile mill products. The estimated net bounty or grant is 5.00 percent *ad valorem*. We also preliminarily determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Peru of apparel after November 1, 1984. There is no countervailable benefit for apparel and therefore our preliminary determination is negative. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products from Peru that are entered, or withdrawn from warehouse, for consumption after the date of publication of this notice, and to require a cash deposit or bond on entries of certain textile mill products in the amount equal to the estimated net bounty or grant.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Peru." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we are changing the titles of these investigations to "Certain Textile Mill Products and Apparel from Peru." The scope of these investigations remains the same as announced in the initiation.

If these investigations proceed normally, we will make our final determinations by March 4, 1985.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Terry Link or Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0189 or 377-5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Peru of certain textile mill products. For purposes of these investigations, the following programs are preliminarily found to confer a bounty or grant:

- Certificate of Tax Rebate System (CERTEX);
- Nontraditional Export Fund (FENT); and
- Law for the Promotion of Exports of Nontraditional Goods (Export Law).

We estimate the net bounty or grant to be 5.00 percent *ad valorem* for textile mill products. There is no countervailable benefit on apparel after November 1, 1984. We also preliminarily determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, after November 1, 1984, to manufacturers, producers, or exporters in Peru of certain apparel.

Case History

On July 19, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' GarmentWorkers Union, on behalf of the U.S. industry producing certain textiles and textiles products. In compliance with the filing requirements of § 335.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Peru of textiles and textile products receive, directly or directly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 8, 1984, we initiated such investigations (49 FR 32438). We stated that we expected to issue preliminary determinations by October 12, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industries are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to U.S. industries.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Peru in Washington, D.C., on August 24, 1984. Based on the responses to the preliminary questionnaire, we requested responses from those producers who account for at least 60 percent of the textile mill products and apparel exported to the United States. We selected 5 textile mill product producers and exporters, and 1 appparel producer and exporter to respond to the detailed questionnaire. On October 22, 1984, we presented the detailed government and company questionnaires to the government of Peru in Washington, D.C. The responses to our detailed questionnaires were received on November 27, 1984.

Certain respondents in the *Textile Mill Products and Apparel* investigations have raised the issue as to whether petitioners have standing to file these cases. We have addressed this issue in our preliminary determinations of *Certain Textile Mill Products and Apparel from Indonesia*, published concurrently with this notice. See that notice for our comments on the issue of petitioners' standing.

One U.S. importer of women's cotton knit sweaters from Peru, the Easy Company, applied for exclusion of women's cotton knit sweaters (TSUSA Item 383.2750) from the investigation on the ground that petitioners lack standing to bring a countervailing duty action against cotton knit sweaters from Peru. The Easy Company asserts that petitioners are not "interested parties" with respect to this product because they are not producers or workers who produce a "like" product. After review of the submissions of the Easy Company and the response of the petitioners on this issue, we preliminarily determine that ACTWU and ILGWU, both of which represent workers that are engaged in the production of cotton knit sweaters, have standing with regard to this product as their members produce "a product which is like, or in the absence of like, most similar in characteristics and uses with * * *" women's cotton knit seaters from Peru, in accordance with the statutory definition of "like product." 19 U.S.C. 1677(10). Accordingly, we have not rescinded the initiation of our investigation of this product for purposes of these preliminary determinations.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel, which are described in Appendix A, that is attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" which was published in the April 26, 1984 issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

As explained elsewhere in this notice, effective November 1, 1984, the government of Peru rendered exports to the United States of the products under investigation ineligible for benefits under the CERTEX and FENT programs. It has long been the Department's policy to take such program-wide changes into account where they are implemented after the review period, but prior to a preliminary determination. We believe that this policy is desirable, because it promotes the expeditious elimination or phase-out of subsidies. Normally, the Department applies this policy merely by raising or lowering, as appropriate, the rate for cash deposit or bonding purposes. However, as a result of the program-wide changes implemented by the Peruvian government, exports of apparel to the United States made after November 1, 1984, do not benefit from bounties or grants. We believe that the policy described above warrants a preliminary negative determination with respect to apparel.

Nevertheless, we are concerned that if the Department were to publish a final negative determination in this type of situation, government could reinstitute its subsidy programs after the termination of the investigation. This happened in *Leather Wearing Apparel from Uruguay*, 45 FR 82979 (1980), in which the Treasury Department revoked a countervailing duty order based upon the Uruguayan government's elimination of one subsidy program and the imposition of an offsetting export tax. Subsequently, the Urguayan government reintroduced the eliminated subsidy program and removed the export tax. In that case, the Department initiated a new countervailing duty investigation, and issued a preliminary affirmative determination within approximately one month of its initiation.

Because of this potential for abuse of our policy concerning program-wide changes, it is the Department's intention to react swiftly and severely whenever such abuses occur. Should the Department discover, for example, that after the issuance of a final negative determination a government has reinstituted a program previously eliminated or substituted other subsidies for the subsidies previously eliminated, we would issue a preliminary affirmative determination based upon the best information available at the earliest possible time. In the case of a country that is not a "country under the Agreement," this could occur at the same time as the decision to initiate a new investigation. In addition, the country in question would no longer be eligible to take advantage of our policy on program-wide changes, except where to do so would *increase* the cash deposit or bonding rate.

The Department believes that these types of sanctions will deter abuse of our policy on program-wide changes. However, because of the importance of this issue, we invite comments from the public. We will take such comments into account in making our final determination in this case.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition and the response to our questionnaires, we preliminarily determine the following:

I. Programs Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Peru of certain textile mill products and apparel under the following programs.

A. Certificate of Tax Rebate System (CERTEX)

Under this program, qualifying exporters are eligible to apply for certificates issued by the government in amounts equal to a percentage of the f.o.b. invoice price of export shipments. The applicable CERTEX percentage is determined by whether the exports are classified as being of low, medium or high value added. CERTEX certificates may be applied against taxes owed the Peruvian government or they may be negotiated as commercial paper.

The CERTEX program is specifically export oriented. The amount of benefits available under the program is based solely on export performance. Both the five textile mill products companies and the one apparel company that were asked to respond to our questionnaire participated in the program. Consequently, we preliminarily determine that the CERTEX program operates to confer countervailable export bounties or grants on Peruvian textile mill products and apparel.

To calculate the benefit derived from this program prior to November 1, 1984, we divided the total amount of CERTEX certificates issued to the five textile mill product companies by the value of those company's total exports to all markets during the review period and did the same for the apparel producer. On this basis, we preliminarily determine that during the review period the benefit

conferred by this program on textile mill product exports is 20.08 percent *ad valorem* 22.37 percent *ad valorem* for apparel.

However, as of November 1, 1984, exports to the United States of the products subject to these investigations are ineligible for receipt of CERTEX certificates. Thus, exports to the United States after that date will not benefit from this program and we will take this into account for our cash deposit rate.

B. Nontraditional Export Fund ("FENT")

Under this program, the government of Peru provides short-term export financing to exporters of goods not traditionally exported. There are three types of this short-term financing: local currency loans, foreign currency loans, and mixed local and foreign currency loans. The loans are drawn from a fund established by the Banco Central de Reserve del Peru ("BCRP"), and passed through the Banco Industrial del Peru and a commercial disbursing bank. Both the five textile mill product companies and the one apparel company that were selected to respond to our questionnaire participated in this program during the review period. Each company did not receive all three types of loans.

Because this program provides preferential financing on the basis of export performance, we preliminarily determine that it confers bounties or grants on Peruvian textile mill products and apparel. We used the following methodologies to calculate benefits for exports prior to November 1, 1984.

For local currency loans, we calculate the interest rate differential between the rate charged on soles loans and the monthly rate charged by commercial banks on promissory notes. Both rates were adjusted to reflect the durations of the loans. To calculate the benefit, we multiplied the interest rate differential by the aggregate principal amount of loans.

Foreign currency loans are made for a maximum of 180 days at the concessional annual rate of 1 percent. These loans are actually disbursed in soles and are available in amounts of up to 90 percent of the export value of a given shipment. At the same time that a firm receives the loan proceeds in soles, it must borrow an amount equal to 80 percent of the value of the loan in foreign currency, usually U.S. dollars. This foreign currency loan must be deposited with the BCRP. The cost to the firm in borrowing foreign currency exceeds the return on the deposit with the BCRP. Foreign currency loans are of the same duration as the soles loans. To calculate the benefit, we converted the aggregate principal amount of each company's foreign currency loans from U.S. dollars to soles. As best available information, we used an average exchange rate for 1983 to make this conversion. This figure was multiplied by the difference between the FENT rate for foreign currency borrowing and the benchmark rate for the cost of short-term foreign currency borrowings from external resources to arrive at the gross benefit. Both rates were adjusted to reflect the durations of the loans. We then calculated the net cost to each company of its foreign currency borrowings and deposits. After converting this amount to soles, we subtracted it from the gross benefit to obtain the net benefit.

The mixed loan type of financing permits exporters to obtain pre-shipment financing in both dollars and soles for up to 90 percent of the export value of each shipment; of this 90 percent, 50 percent of the loan is available in soles and 40 percent is available in dollars. Similar to the foreign currency alternative, mixed loans also require that the exporter borrow 32 percent of the total value of the loan in a foreign currency and deposit this amount with the BCRP. The foreign currency portion of these loans is disbursed in soles at a concessional rate of 1 percent. The soles portion of these mixed loans is available at the rate charged on the sole type of loan. To calculate the benefit to each company from the foreign currency portion of mixed loans, we calculated the total foreign currency loan principal for mixed loans. The amount was converted to the appropriate soles equivalent. Using the same method as described above for foreign currency loans, we then calculated a gross benefit, and a net cost of foreign borrowing and deposits, and calculated a net benefit. The benefit from the soles portion of mixed loans was calculated in the same manner as for local currency loans.

We totaled the benefits received for each type of loan and divided this amount by total exports for the textile mill products companies and did the same for the apparel company. We preliminarily find that during the review period, there was an *ad valorem* benefit on exports of textile mill products to the United States, of 0.97 percent and an *ad valorem* benefit on exports of apparel of 2.49 percent.

However, as of November 1, 1984, exports to the United States of the products subject to these investigations are ineligible for FENT financing. Exporters of these products have also been required to prepay all FENT loans outstanding as of November 1, 1984. Thus, exports to the United States, after November 1, 1984, of the products under investigation, will not benefit from this program and we will take this into account for our cash deposit rate.

C. Articles 8, 9, 12, 13, 14 and 16 of the Law for the Promotion of Nontraditional Goods (the Export Law)

Petitioners alleged that a number of benefits are provided to producers, manufacturers, or exporters of textile mill products and apparel in Peru under various articles of the Export Law.

The aim of the Export Law is to improve the foreign trade structure of Peru by promoting nontraditional exports. We have determined that benefits are provided under articles 8, 9, 12, 13, 14 dnd 16 as described below:

1. The General Law of Industries established four priorities for the various industrial groups, with each priority having a different percentage and selectivity index which determined the amount of net income that could be invested or reinvested free of income tax. Decree Law 22401 of December 1978, changed the reinvestment benefit from a tax deduction to a tax credit. Under Articles 8 and 9 of the Export Law, exporters are permitted to upgrade their priority one level. One textile mill product stated they used this program during the period of investigation.

Since this upgrading is contingent on export performance, we preliminarily determine that the benefit upgrading from one priority to another confers a bounty or grant upon exports. The benefit provided by these articles is the additional amount of tax credit which exporters of textile mill products receive by upgrading one priority.

We preliminarily calculate the 1983 benefit provided by these articles by totaling the additional tax credit taken on the basis of the upgrading and allocating this value over total exports. On this basis we calculate a bounty or grant of 0.04 percent *ad valorem* for textile mill products. The apparel producer did not participate in this program. Therefore, we preliminarily determine that no countervailable benefit is conferred on apparel.

Since the reinvestment priority system was terminated by the General Law of Industries enacted in 1982, and the textile mill products and apparel exporters are not able to benefit from these articles after 1983, these benefits are excluded from any estimated duty deposit rates.

2. Article 12 allows exporters to claim an additional amount of depreciation on their tax returns. The amount they are able to claim is 50 percent above the normal rate of depreciation. Two

exporters of textile mill products used Article 12 during the review period. Since the additional depreciation is contingent on export performance, we preliminarily determine that Article 12 confers a bounty or grant on the export of textile mill products from Peru.

The benefit was determined by totaling the tax savings to each company and allocating this value over total exports. On this basis we calculate a bounty or grant of 0.62 percent *ad valorem* for textile mill products. Since the apparel producer did not participate in this program, we preliminarily determine that no countervailable benefit is conferred on exports of apparel.

3. Article 13 of the Export Law states that enterprises may capitalize the earnings invested or reinvested with an exemption from the income tax, provided that they do so within six years, inclusive of the fiscal year in which the tax exemption is obtained.

Under Decree Law 22037 of December 1977, any company may capitalize earnings which are invested or reinvested within five years, and receive an exclusive from the five percent income tax on capitalization. One textile mill products exporter responded that it had used Article 13. Since the use of Article 13 is contingent on export performance, we preliminarily determine that Article 13 confers a bounty or grant on the export of textile mill products from Peru.

The benefit provided by this Article is the additional year in which exporters are allowed to capitalize earnings with an exemption from income tax. We calculated the benefit as the difference between the future value of the tax savings 6 years in the future and the tax savings 5 years in the future. Then, we allocated this benefit over total exports. On this basis, we calculate a bounty or grant of 0.84 percent *ad valorem* for textile mill products. Because the apparel producer did not participate in this program, we preliminarily determine that no countervailable benefit is conferred on exports of apparel.

4. According to Article 14 of the Export Law, enterprises that increase the number of permanent jobs in relation to those existing in the previous year may deduct as an expense of the fiscal year the amount of remuneration paid out as a result of the new jobs created. Thus, companies may receive income tax credits ranging from 30 to 60 percent. One textile mill products exporter responded that it used Article 14.

Since this income tax deduction in the amount of the remuneration paid out on new jobs is available only to exporters, we regard the resulting income tax savings as a bounty or grant. We calculated the benefit provided by multiplying the deduction amount by the company's tax rate to find the actual tax savings, and allocating the net tax savings over total exports. On this basis, we calculate a bounty or grant of 0.002 percent *ad valorem* for textile mill products. The apparel producer did not use this program. Therefore we preliminarily determine that no countervailable benefit is conferred on exports of apparel.

5. Article 16 of the Export Law provides an exemption of import duties on imported capital equipment or machinery if an exporter of nontraditional goods meets certain requirements established by law and signs a written contract with the government. To obtain the exemption, the exporter must export 40 percent of its annual production within a maximum of two years from the import of the equipment or machinery and must generate a net profit in foreign currency equal to 100 percent of the value of the imported machinery or equipment within five years of the import.

If these two requirements are met, the exporter's duties are suspended during the two- and five-year periods. If the exporter cannot meet the two requirements for exemption within the applicable time periods, for reasons approved by the Ministry of Industry, Tourism and Integration, it may cancel the contract with the government and repay the duties over a term of years, without penalties or interest. If the exporter otherwise fails to meet the terms of the contract, the exporter may be subject to the payment of penalties and interest.

Article 16 of the Export Law provides a benefit in that an enterprise which imports machinery is exempted from the payment of import duties on the machinery if the export requirements are met. Pending the meeting of these requirements, the exporter benefits from a suspension of import duties on the imported machinery and equipment.

To calculate the benefit arising from this program we have treated the amount of duties deferred as a series of short-term loans at no interest. Thus, for duties that are deferred, the benefit is the interest that would have been paid if a short-term loan, in the amount of the duties, had been taken out. If the duties were finally exempted in 1983, we calculate the benefit by adding the amount of the interest that would have been paid to the amount of the exemption. We totaled the amount of the benefits from the duty deferrals and duty exemptions and allocated the benefits over total exports. On this basis, we calculate an *ad valorem* rate of 3.54 percent for textile mill products. Since the apparel producer did not benefit from the suspension of or the exemption from import duties, we preliminarily determine that no countervailable benefit is conferred on exports of apparel.

II. Programs Determined Not To Be Used

We preliminarily determine that manufacturers, producers, or exporters in Peru of certain textile mill products and apparel did not use Articles 23, 24, and 31 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law), which were listed in our notice of initiation.

A. Article 23 of the Export Law permits consortia formed for the exportation of nontraditional goods an exemption from various taxes. The government of Peru and the companies responding to our questionnaire stated that they do not use this program.

B. Article 24 allows an exemption from duties on raw materials and/or unfinished goods to be used exclusively in the manufacture of finished goods for export and in the manufacture of unfinished goods which, once processed, are included among such goods. Counsel for the respondents stated that the companies selected to respond in this investigation do not use this program.

C. Article 31 permits shippers to make preferential rates available to exporters of nontraditional goods. The responses of the government of Peru and the companies responding to our questionnaire indicate that they have not benefited from this program.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determinations. As previously stated, we will not accept any statement in the response that cannot be verified in our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products from Peru which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require an *ad valorem* cash deposit or bond for each such entry of this merchandise in the amount of 5.00 percent *ad valorem*. This

suspension will remain in effect until further notice. As discussed above, our preliminary determination with respect to apparel is negative, therefore, we are not directing the U.S. Customs Service to suspend liquidation on entries of apparel.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 2:00 p.m. on February 5, 1985, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by January 30, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: December 17, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A

The products covered in these investigations are certain textile mill products and apparel from Peru.

The merchandise is currently classified under the item numbers of the *Tariff Schedules of the United States, Annotated* listed below:

A. Textile Mill Products						
Yarns & Threads						
301.0000	303.2040	303.2042	307.6600	307.6810	307.6840	307.6850
310.9120						
Cordage						
316.4000						
Fabric						
320.0001	320.0002	320.0004	320.0008	320.0058	320.0064	320.0092
320.0094	320.1001	320.1002	320.1003	320.1004	320.1006	320.1008
320.1026	320.1058	320.1092	320.1094	320.2028	320.2032	320.2046
320.2058	320.2092	320.2094	320.3026	320.3028	320.3032	320.3042
320.3046	320.3060	320.3064	320.3092	320.3094	320.4094	320.5094
320.6028	320.8026	321.0044	321.1001	321.1004	321.1044	321.1046
321.1088	321.1092	321.2026	321.2032	321.2046	321.3092	321.4028
321.4094	322.0002	322.1001	322.1003	322.1004	322.1026	322.1028
322.1044	322.1060	322.1088	322.1092	322.3092	322.4028	322.4092
322.4094	322.8094	323.0088	323.0092	323.0094	323.1052	323.1092
324.1092	324.2094	326.0036	326.0038	326.1001	326.1054	326.1094
327.1001	327.3092	327.3094	328.3092	328.3094	336.1520	336.6241
336.6243	336.6251	336.6253	336.6257	336.6441	336.6443	336.6451
336.6453	336.6455	336.6457	338.5021	338.5041	338.5059	338.5069
Special Construction Fabrics						
345.1040	346.3530	346.5200	346.6020	346.6050	352.8095	353.5032
357.1500						
Textile Furnishings						
360.0600	360.1515	360.4225	360.4825	360.7000	361.0520	361.4500
361.4800	363.0120	363.1040	363.1500	363.2000	363.4500	363.6520
363.6540	363.7000	364.2000	364.2300	365.7865	365.8610	365.8620
366.2460	366.2480	366.2780	366.4700	367.3424	367.3428	
Miscellaneous						
385.3000	385.5000	386.0600	386.5045	388.1000	388.2000	388.4000

B. Apparel						
Apparel						
372.1010	372.1020	372.1050	372.1070	372.3000	372.3500	372.4500
372.7000	372.8000	372.1500	373.2500	374.3000	374.5020	274.5040
376.2000	378.1520	379.0260	379.1100	379.1530	379.1720	379.3905
379.3930	379.4020	379.4040	379.4050	379.4060	379.4070	379.5520
379.5550	379.6470	397.7240	379.7250	379.7295	379.7530	379.7620
379.7630	379.7650	379.7830	379.7900	379.8318	379.8360	379.8420
383.0390	383.0805	383.1200	383.1320	383.1340	383.1510	383.1615
383.1620	383.2013	383.2050	383.2060	383.2305	383.2708	383.2709
383.2720	383.2730	383.2731	383.2750	383.2751	383.3050	383.3090
383.3465	383.3770	383.4705	383.4709	373.4761	383.4821	383.4825
383.5035	383.5090	383.5395	383.5500	383.5820	383.5830	383.5845
383.6200	383.6310	383.6330	383.6340	383.6345	383.6350	383.6360
383.6371	383.6372	383.6385	383.6395	383.6690	383.7000	383.7210
383.7510	383.7540	383.7590	383.9255	383.9535		

Headwear

702.5400 702.5600 702.6000 702.7000 702.7500 702.8000 703.1600

Gloves

704.2500 704.6000 704.6500

Luggage and Handbags

706.3650 706.4140

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[C-559-401]

Preliminary Negative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel. The estimated net countervailable benefits are *de minmis*, and therefore our preliminary countervailing duty determinations are negative.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Singapore." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one on textiles and non-apparel textile products, and one on apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we are changing the titles of these investigations to "Certain Textile Mill Products and Apparel from Singapore." The scope of these investigations remains the same as announced in the initiation.

If these investigations proceed normally, we will make our final determinations by March 4, 1985.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Melissa Skinner, Office of Investigations and Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0187 or 377-4412.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

For purposes of these investigations, the following programs are preliminarily found to confer countervailable benefits:

- Monetary Authority of Singapore Rediscount Facility; and
- Double Deduction of Export Promotion Expenses.

The estimated net countervailable benefit is 0.02 percent *ad valorem* for textiles and 0.07 percent *ad valorem* for apparel. These amounts are *de minimis*. Therefore, we preliminarily determine that there is no reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel.

Case History

On July 19, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Singapore of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 8, 1984, we initiated such investigations (49 FR 32439). We stated that we expected to issue preliminary determinations by October 12, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 40198).

Since Singapore is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Singapore in Washington, D.C., on August 24, 1984. Based on the responses to the preliminary questionnaire, we requested responses from those producers who account for at least 60 percent of the textiles and apparel exported to the United States.

We selected three textile producers and exporters, and sixteen apparel producers and exporters to respond to the detailed questionnaire. Two additional companies made timely requests for exclusion. On October 26, 1984, we presented the detailed government and company questionnaires to the government of Singapore in Washington, D.C. The responses to our detailed questionnaires were received on December 3 and 4, 1984.

Certain respondents in the *Certain Textile Mill Products and Apparel* investigations have raised the issue as to whether petitioners have standing to file these cases. We have addressed this issue in our preliminary determinations of *Certain Textile Mill Products and Apparel from Indonesia*, published concurrently with this notice. See that notice for our comments on the issue of petitioners' standing.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel, which are described in Appendix A, that is attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the

existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition and the response to our questionnaries, we preliminarily determine the following:

I. Programs Determined to Confer Countervailable Benefits

We preliminarily determine that countervailable benefits are being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel under the following programs:

A Monetary Authority of Singapore Rediscount Facility

Petitioners allege that producers and exporters of the products under investigation benefit from the provision of preferential financing through the Monetary Authority of Singapore's (MAS) rediscount facility for eligible export and pre-export bills of exchange.

The Monetary Authority of Singapore operates a rediscounting facility at which banks are permitted to rediscount qualified pre-export and export bills of exchange. Most exporters of manufactured products are eligible to receive financing from commercial banks using this facility. Banks negotiating rediscounted bills are allowed to charge a maximum commission of not more than one and one-half percent, per annum, above the rediscount rate charged by the Authority. The Authority's rediscount rate is subject to change from time to time. During the review period the rediscount rate was 8 percent, per annum.

The rediscount rate is lower than the prime rate (average prime lending rate of ten major banks in Singapore) at which comparable commercial loans were available during the review period. During the review period the average annual prime rate was 9.05 percent. Since the rediscount facility is only available for use by exporters and the rate of interest charged is less than commercial interest rates on comparable loans, we preliminarily determine that the provision of financing by the rediscount facility of the Monetary Authority of Singapore constitutes a countervailable benefit.

The companies only provided the aggregate amount of loans rediscounted with the MAS applicable to exports of the subject merchandise to the United States. The benefit provided under this program was determined by applying the interest rate differential between the prime rate and the rediscount rate to the principal amount of these loans for the average number of days the loans were outstanding. We then allocated the aggregate benefit over the total U.S. exports of the products under investigation. On this basis, we calculated a countervailable benefit in the amount of 0.02 percent *ad valorem* for textiles and 0.07 percent *ad valorem* for apparel.

B. Double Deduction of Export Promotion Expenses

Petitioners allege that firms exporting the merchandise under investigation are receiving benefits under the Singapore tax law which allows a double deduction from gross corporate income of expenses incurred in export promotion.

According to the response of the Singapore government, this program allows the double deduction of approved expenses incurred in the overseas promotion of Singapore made products. Any company undertaking the following promotion activities is eligible for the benefit:

- Participation in an overseas trade fair, trade exhibition, and trade mission;
- Participation in an approved trade fair or exhibition;
- Maintaining an approved overseas trade office;
- Overseas market development program; and
- Advertising in an approved publication.

Since the program is available only to exporters, we preliminarily determine that this program confers a countervailable benefit upon the products under investigation. To calculate the benefit from this program for the review period, we determined the tax savings (the amount of the deduction claimed on the tax return filed during the review period applied to the corporate tax rate) and allocated that amount over the total value of export sales in 1983 to determine a countervailable benefit of 0.001 percent *ad valorem* for apparel.

II. Programs Determined Not To Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Singapore of certain textile mill products and apparel under the following programs.

A. Part VIA of the Economic Expansion Incentives Act (Investment Allowance)

Petitioners allege that under this program, producers and exporters receive tax credits for up to 50 percent of the outlays on approved new investments in plant, machinery, and factory buildings.

Under the Investment Allowance program, a company is granted tax exemption on a specific amount of profits equal to a percentage of the fixed investments in plant and equipment incurred by the company on the project. Companies can receive the investment allowance if the investment meets one of the following criteria:

- The investment results in greater efficiency in resource utilization;
- The investment introduces new technology into an existing industry;
- The project is significantly more efficient in resource utilization than the industry average; or
- The project produces parts and components used by other industries.

According to the government of Singapore, all manufacturing and manufacturing-related service companies investing in new productive equipment are eligible to participate in the program. Because the program is not limited to a specific enterprise or industry, or group of enterprises or industries, we preliminarily determine that the program does not constitute a bounty or grant.

B. Export Credit Insurance Corporation

Petitioners allege that exporters benefit from the provision of export credit insurance at concessional rates not consistent with commercial considerations, which are inadequate to cover the long-term operating costs of the program.

According to the response of the government of Singapore, the Export Credit Insurance Corporation insures exporters against the risk of non-payment. To qualify for export credit insurance coverage, the exporter must be a company incorporated in Singapore and operating out of a permanent establishment in Singapore. According to the government of Singapore, premiums charged by the Export Credit Insurance Corporation are on a commercial basis and the Corporation

operates like any other private commercial company which watches its profits closely. Because it appears the premiums charged to exporters allow the Corporation to cover long-term operating expenses, we preliminarily determine that the program does not constitute a bounty or grant.

C. Skills Development Fund

Petitioners allege that the Singapore Development Board provides countervailable assistance to producers and exporters of the products under investigation through the Skills Development Fund, which provides assistance, usually in the form of grants, to employers undertaking to upgrade employee skills or to increase efficient production.

The Skills Development Fund (SDF) was established in October 1979 to promote the training of the Singapore labor force. The SDF is financed through a levy on employers, currently amounting to four percent of the salaries of all employees earning less than $750 per month. According to the government of Singapore, all sectors of the economy are eligible to participate in the program. Because the program is not limited to an enterprise or industry, or group of enterprises or industries, we preliminarily determine that this program does not constitute a bounty or grant.

D. Textile and Garment Industry Training Centre

Petitioners allege that the producers and exporters of the products under investigation receive a countervailable grant through the government's operation of a training center specifically for textile workers to the extent that this program involves an assumption of manufacturing and production costs.

According to the response of the government of Singapore, the Textile and Garment Industry Training Centre was established, and is operated, by the Singapore Textile and Garment Manufacturers' Association (STGMA). The Centre provides to all employees of the textile and garment industry, a wide range of courses aimed at training new workers and upgrading the skills of existing workers. The cost of courses taken is the responsibility of the participants' employer. Employers may apply to the Skills Development Fund (SDF) for training grants to cover these costs (see previous section).

The STGMA received funds from the SDF to assist in covering the Centre's start-up cost. According to the response of the government of Singapore, this Centre is one of eleven centers in a wide range of industries, which were, or are in the process of being established with funds provided by the SDF. Since we have no evidence on the record that the provision of grants by the SDF to industry associations is limited to specific industries or groups of industries, we preliminarily determine that the Textile and Garment Industry Training Centre does not confer a bounty or grant upon the production or exportation of the products under investigation.

E. Public Utility Board Surcharge Exemption Programme

This program provides for exemption from the ten percent surcharge on Public Utility Board (PUB) bills. Exemption from the surcharge is granted on an approval basis to industrial establishments with a monthly electricity consumption of at least 100,000 kwh.

Criteria of energy conservation are the sole basis for determining whether a company qualifies for the exemption. A company with monthly electricity consumption of at least 100,000 kwh qualifies for the exemption as long as it meets one of the following criteria: (a) The company's energy efficiency in the current year is better than in the previous year, (b) the company's energy efficiency is better than the average for the same industry group, or (c) new investments in energy conservation equipment are equal to or greater than 15 percent of total annual energy costs.

Since this program is not limited to a specific enterprise or industry, or group of enterprises or industries, we preliminarily determine that this program does not constitute a bounty or grant.

F. Small Industries Finance Scheme

Under this program, the Economic Development Board provides fixed interest funds to financial institutions participating in the program for onward lending to qualifying small companies. Loans made to such companies are currently set at nine percent. The Economic Development board and the participating financial institutions jointly administer the program and share equally in the credit risk. All small, local companies in manufacturing or manufacturing-related servicing activities qualify for the program as long as they meet the normal credit risk criteria set by the particpating financial institutions.

Since this program is not limited to a specific enterprise or industry, or group of enterprises or industries, we preliminarily determine that this program does not constitute a bounty or grant.

III. Programs Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Singapore of certain textile mill products and apparel did not use the following programs which were listed in our notice of initiation.

A. Parts II, III, IV, IVA, IVB, and V of the Economic Expansion Incentives Act

Petitioners allege that the producers and exporters of the products under investigation benefit from exemptions on income tax based upon their classification under the Economic Expansion Incentives Act. According to the responses of the government of Singapore and the companies chosen to respond to our questionnaire, the only part of the Economic Expansion Incentives Act used by producers and exporters was the investment allowance allowed under Part IVA of the Act (see the section "Programs Determined Not To Confer Bounties Or Grants").

B. Capital Assistance Scheme

Petitioners allege that producers and exporters of the products under investigation receive preferential loans and loan guarantees under the Capital Assistant Scheme which is administered by the Singapore Economic Development Board. According to the responses of the government of Singapore and the companies chosen to respond to our questionnaire, this program was not used.

C. Production Development Assistance Scheme

Petitioners allege that producers and exporters of the products under investigation receive grants from the Singapore Economic Development Board under the Product Development Assistance Scheme to finance technical improvements in products or manufacturing processes. According to the government of Singapore and the responses of the companies chosen to respond to our questionnaire, this program was not used.

D. Research and Development Tax Incentives

Petitioners allege that the producers and exporters of the products under investigation receive special tax treatment for approved research and development costs. According to the responses of the government of Singapore and the companies chosen to

respond to our questionnaire, this program was not used.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. As previously stated, we will not accept any statement in the response that cannot be verified on our final determination.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on February 11, 1985, at the U.S. Department of Commerce, room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 4, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: December 17, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix

List of TSUSA codes which covered Singapore's exports of certain textile mill products and apparel to the United States in 1983.

A. Textile Mill Products						
Yarns						
300.6026	310.1135	310.4047	310.5049	310.9140		
Fabrics						
320.0002	320.0008	320.0036	320.0058	320.1001	320.1002	320.1008
320.1038	320.1058	320.1092	320.2032	320.2092	320.1008	322.1092
322.3094	322.4028	322.5094	322.6094	323.1092	325.2094	326.0001
326.0058	326.1001	328.2094	328.3028	328.4094	329.1092	336.6451
326.6453	337.2010	338.5008	338.5009	338.5010	338.5012	338.5015
338.5035	338.5065					
Special Construction Fabrics						
345.1040	349.1060	351.6030	353.5052	355.6510	357.9000	358.0290
Textile Furnishings						
360.1515	360.1520	360.3000	360.4225	360.4825	360.7000	363.5030
363.5130	363.6015	366.2460	367.3428	367.6500		
Miscellaneous						
385.1500	385.5000	385.5500	385.6120	386.3000	386.5045	389.6265
389.7000						
B. Apparel						
Wearing Apparel						
373.0500	373.2500	373.2700	374.3550	376.5412	376.5609	376.5612
378.0550	379.0215	379.0220	379.0230	379.0240	379.0260	379.0370
379.0610	379.0615	379.0620	379.0630	379.0640	379.0645	379.0650
379.1710	379.1740	379.2320	379.2360	379.2350	379.2610	379.2620
379.2630	379.3120	379.3130	379.3140	379.3190	379.3310	379.3332
379.3925	379.3930	379.3940	379.4020	379.4030	379.4050	379.4060
379.4330	379.4620	379.4640	379.4650	379.4660	379.4670	379.5510
379.5520	379.5520	379.5530	379.5535	379.5540	379.5545	379.5550
379.5555	379.5560	379.5565	379.5800	379.6210	379.6215	379.6220
379.6230	379.6240	379.6250	379.6260	379.6270	379.6280	379.6470
379.6984	379.6992	379.7620	379.7630	379.7650	379.8318	379.8360
379.8420	379.8906	379.8911	379.8915	379.8930	379.8935	379.8940
379.8420	379.8906	379.8911	379.8915	379.8930	379.8935	379.8940
379.9010	379.9020	379.9025	379.9030	379.9035	379.9040	379.9250
379.9515	379.9520	379.9530	379.9540	379.9555	379.9575	379.9580
379.9585	379.9605	379.9630	379.9805	379.0205	379.0210	383.0215
383.0221	383.0225	383.0305	383.0335	383.0350	383.0390	383.0505
383.0506	383.0520	383.0610	383.0611	383.0615	383.0616	383.0805
383.0815	383.0856	383.1802	383.1803	383.1807	383.1808	383.1820
383.1814	383.1842	383.1860	383.1910	383.1915	383.1925	383.1930
383.1835	383.1940	383.2013	383.2016	383.2020	383.2035	383.2040
383.2052	383.2056	383.2058	383.2205	383.2225	383.2230	383.2240
383.2245	383.2050	383.2305	383.2320	383.2354	383.2590	383.2706
383.2708	383.2709	383.2720	383.2725	383.2730	383.2731	383.2750
383.2815	383.2820	383.2830	383.2835	383.2836	383.2910	383.2920
383.3030	383.3040	383.3050	383.3060	383.3065	383.3080	383.3085
383.3090	383.3415	383.3430	383.3435	383.3440	383.3445	383.3446

383.3448	383.3450	383.3452	383.3460	383.3465	383.3466	383.4300
383.4702	383.4704	383.4705	383.4709	383.4711	383.4720	383.4730
383.4747	383.4749	383.4753	383.4755	383.4761	383.4763	383.4765
383.4818	383.4821	383.4825	383.4900	383.5020	383.5035	383.5036
383.5038	383.5090	383.5045	383.5049	383.5050	383.5052	383.5053
383.5062	383.5067	383.5072	383.5073	383.5082	383.5086	383.5090
383.5304	383.5368	383.5830	383.6200	383.6371	383.6385	383.6395
383.6610	383.6650	383.7210	383.7510	383.7540	383.7550	383.7560
383.7590	383.7768	383.7772	383.8002	383.8003	383.8004	383.8005
383.8006	383.8043	383.8044	383.8045	383.8047	383.8070	383.8073
383.8110	383.8114	383.8115	383.8117	383.8125	383.8126	383.8135
383.8140	383.8145	383.8146	383.8160	383.8605	383.8620	383.8621
383.8622	383.8635	383.8645	383.8650	383.8660	383.8661	383.8663
383.8667	383.8669	383.8670	383.9010	383.9015	383.9020	383.9025
383.9030	383.9035	383.9040	383.9041	383.9050	383.9051	383.9060
383.9065	383.9070	383.9071	383.9210	383.9211	383.9215	383.9225
383.9235	383.9245	383.9246	383.9270	383.9276	383.9290	383.9291

Footwear

700.4506

Gloves

704.4508	704.5015	704.8520	704.8550

Luggage and Handbags

706.4121	706.4140	706.4150

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[C-542-401]

Preliminary Affirmative Countervailing Duty Determinations; Certain Textiles Mill Products and Apparel From Sri Lanka

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Sri Lanka of certain textile mill products and apparel. The estimated net bounty or grant is 2.79 percent *ad valorem* for certain textile mill products and 2.79 percent *ad valorem* for apparel. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain textile mill products and apparel products from Sri Lanka except those produced by Texwood Industries limited, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounties or grants.

These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Sri Lanka." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we are changing the titles of these investigations to "Certain Textile Mill Products and Apparel from Sri Lanka." The scope of these investigations remains the same as announced in the notice of initiation.

If these investigations proceed normally, we will make our final determinations by March 4, 1984.

EFFECTIVE DATE: December 21, 1984.

FOR FURTHER INFORMATION CONTACT: Laura Campobasso, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-5403 or 377-1785.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Sri Lanka of certain textile mill products and apparel. For purposes of these investigations, the following programs are preliminarily found to confer a bounty or grant:

- Investment Promotion Zone;
- Export Development Board; and
- Pre-Shipment Export Refinancing Program.

We estimate the net bounty or grant to be 2.79 percent *ad valorem* for certain textile mill products and 2.79 percent *ad valorem* for apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Sri Lanka of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 15, 1984, we initiated such investigations (49 FR 32646). We stated that we expected to issue preliminary determinations by October 15, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 17, 1984 (49 FR 41098).

Since Sri Lanka is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303 (a)(1) and (b) of the Act apply to these investigations. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the government of Sri Lanka in Washington, D.C. on August 27, 1984. Based on the responses to the preliminary questionnaire, we requested responses to supplemental questionnaires from those producers who account for at least 60 percent of the apparel exported to the United States. We selected 17 apparel producers and exporters to respond to the detailed questionnaire, because we

initially believed that only apparel was exported from Sri Lanka to the U.S. On October 25, 1984, we presented the detailed government and company questionnaires to the government of Sri Lanka in Washington, D.C. The responses to our detailed questionnaires were received on November 26, 1984. During our investigation, we discovered that some textile mill products also were exported from Sri Lanka to the U.S.

For purposes of these preliminary determinations, we have used the country-wide rate for apparel as the best information available for certain textile mill products. We have requested information from producers who represent over 60 percent of certain textile mill products, and, if verified, we will include the information in our final determinations.

We received timely requests for exclusion from three companies, Sinotex Lanka Limited (Sinotex), Texwood Industries Limited (Texwood), and Asiaknit Limited, to which we sent copies of the detailed questionnaire. Texwood's response indicates that it receives benefits which are *de minimis*, and it is therefore, excluded from these preliminary determinations. Sinotex receives countervailable benefits above the *de minimis* rate of 0.50 percent, and Asiaknit did not respond to our questionnaire. Therefore, we have included Sinotex and Asiaknit in the suspension of liquidation for these preliminary determinations.

Certain respondents in the certain textile mill products and apparel investigations have raised the issue as to whether petitioners have standing to file these cases. We have addressed this issue in our preliminary determinations of *Certain Textiles Mill Products and Apparel from Indonesia*, published concurrently with this notice. See that notice for our comments on the issue of petitioners' standing.

Scope of the Investigation

The products covered by these investigations are certain textile mill products and apparel from Sri Lanka, as described in Appendix A, attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the Subsidies Appendix attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, of course, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of these preliminary determinations, the period for which we are measuring bounties or grants ("the review period") is April 1983 through March 1984, which corresponds to the most recent fiscal year of the producers selected to respond to our questionnaire.

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Sri Lanka of certain textile mill products and apparel under the following programs.

A. Investment Promotion Zones

Petitioners alleged that the government of Sri Lanka provides benefits to producers and exporters of the subject merchandise through an Investment Promotion Zone (IPZ). They alleged that benefits received under this program by firms that locate in the IPZ include exemptions from taxes on corporate and personal income, exemptions from taxes on royalties and dividends for up to 10 years, availability of developed factory sites at nominal charges, and exemptions from paying import duties on machinery, equipment, and materials.

Law No. 4 of 1978 amended by Act No. 43 of 1980 and Act No. 21 of 1983 establishes an IPZ, operated by the Greater Colombo Economic Commission (GCEC) in Sri Lanka. The entire production from the firms located in the IPZ must be marketed abroad. As specified in the responses, firms locating in the zone may receive the following benefits from the GCEC: (1) Exemptions from payment of corporate income taxes; (2) exemption from payment of import duties; (3) exemptions from payments of withholding taxes on dividends; and (4) exemptions from payment of withholding taxes on royalties paid to non-resident persons/companies.

According to the responses, the GCEC does not build factories within the zone for lease to investors. All investors must build their own factories and no government financial assistance is provided for construction. Factory sites that are available to producers are provided on a commercial basis.

Of the firms who responded to our questionnaire, ten are located in the IPZ. These firms receive the following: corporate tax exemptions or tax holidays, and import duty exemptions on machinery, equipment, and materials. We find no countervailable benfits with respect to duty exemptions on imported raw materials, because duty exemptions on raw materials that are physically incorporated in the final exported products are not considered bounties or grants under the Act. We preliminarily determine, regarding these exemptions of corporate taxes and of import duties on plant and equipment, that these exemptions are countervailable because the IPZ program operates to stimulate export sales over domestic sales.

To calculate the benefits from the exemption of corporate taxes for the period in which we are measuring bounties or grants (April 1983 to March 1984), we determined the tax savings received during the review period. The amount of tax savings received under this program was divided by the total value of exports in the review period to determine an estimated bounty or grant of 1.95 percent *ad valorem* for certain textile mill products and 1.95 percent *ad valorem* for apparel.

To calculate the benefits from exemptions on import duties, we treat these exemptions as grants under the grant methodology outlined in the Subsidies Appendix. Using this methodology, we calculate a bounty or grant of 0.27 percent *ad valorem* for certain textile mill products and 0.27 percent *ad valorem* for apparel.

B. Export Development Board

Petitioners alleged that the producers and exporters of the subject merchandise receive benefits from the Export Development Board (EDB). The EDB allegedly provides tax-free export expansion grants for exporting firms with net foreign exchange earnings equal to 20 percent or more of export value, export-marketing services to export ventures, and financial aid to export ventures.

The Export Development Act No. 40 of May 1979 created the Sri Lanka Export Council of Ministers and established the Sri Lanka EDB.

According to the responses, the EDB created an original Export Expansion Grant Scheme in 1981, and devised another Export Expansion Grant Scheme in 1983. Through this 1983 Scheme, firms may apply for grants to be used for export-oriented projects. Funding for the Export Development Grant Scheme comes from the Export Development Fund (EDF), which is administered by the EDB.

The EDB has the authority to assist firms with export marketing by sponsoring participation in international trade fairs and trade missions abroad. However, the EDB has not provided any such sponsorship to exporters of the subject merchandise to the United States. Based on the responses of the producers and exporters selected to respond to our questionnaires, the only benefits they have received from the EDB are tax-free export expansion grants. Producers and exporters have not received export-marketing services or financial aid to export ventures.

We preliminarily determine that the tax-free export expansion grants stimulate the production for export of the subject merchandise and therefore, provide a countervailable benefit. To calculate the benefits from the tax-free export expansion cash grants we used the grant methodology outlined in the Subsidies Appendix and found the bounty or grant to be 0.39 percent *ad valorem* for certain textile mill products and 0.39 *ad valorem* for apparel.

C. Pre-Shipment Export Financing . Program

Petitioners alleged the Central Bank of Sri Lanka provides loans through the Export Development Fund at preferential interest rates to finance export-oriented investment. The benefits alleged include long-term refinancing and short-term working capital loans. The Export Development Fund (EDF) administered by the EDB was established to finance the operations and programs of the EDB. The EDF, according to the response, has never provided medium- and long- term financing to exporters and does not act as a financing facility.

The Cental Bank of Sri Lanka operates a refinancing program for medium- and long-term loans provided by development and commercial banks. Development and commercial banks may apply for refinancing of medium- and long-term loans for export-related investments under the Government's Medium- and Long-Term Credit Fund (MLCF) program. The Central Bank conducts its own independent evaluation of each loan application. The risk of default is borne by the commercial bank. None of the companies selected to respond to the questionnaire receive any medium- or long-term loans under the MLCF programs.

The government response further states that exporting firms receive short-term working capital loans under the pre-shipment export refinancing program. Commercial banks determine which loans will be submitted for refinancing. Only exporters are eligible for such refinancing. The amount of refinancing available from each individual commercial bank is subject to aggregate limits established by the Central Bank. The companies selected to respond to the questionnaires received pre-shipment export loans under this program.

Because these loans are intended to stimulate exports, we preliminarily determine that they confer bounties or grants if they are provided at preferential rates. As specified in the Subsidies Appendix, the benchmark rate for short-term loans is the most appropriate national average commercial method of short-term financing. The government of Sri Lanka provided weighted-average lending rates of commercial banks published in the "Central Bank Annual Surveys of Bank Deposits and Advances" interest rates on short-term commercial bank loans. Because this bench mark rate is higher than the rates on the pre-shipment export loans, we preliminarily determine that these loans confer bounties or grants on the products under investigation. Applying this benchmark rate we calculate a bounty or grant of 0.18 percent *ad valorem* for certain textile mill products and 0.18 percent *ad valorem* for apparel.

II. Program Determined Not To Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Sri Lanka of certain textile mill products and apparel under the following program.

Textile Self-Sufficiency Program

Petitioners alleged that the government of Sri Lanka provides the producers and exporters of the subject merchandise with the following benefits under a textile self-sufficiency program: modernization projects for mills that produce fabrics and man-made fiber textile products, construction of new mills and assistance to the powerloom sector. According to the responses, the government of Sri Lanka does not administer a textitle self-sufficiency program. The government, through the Ministry of Textile Industries, owns a number of textile mills engaged in the production and sale of cotton and synthetic textile products; however, none of the output of these mills is exported to the United States. None of the producers and exporters selected to respond to our questionnaire purchased the output of government-owned mills.

In addition to owning certain textile mills, the government of Sri Lanka operator the State Trading Corporation of Sri Lanka, which is called Salusala. Salusala was established to import textile products and distribute them in the local market. The company also purchases from local mills, both private and government-owned. According to the response, Salusala is not required to purchase from government-owned mills and it sells all merchandise at market prices.

The response also states that private companies exporting to the U.S. during 1983 have never received government assistance directed at improving mills or constructing new ones.

Based on our review of the information on the record to date, we preliminarily determine that no countervailable benefits are being provided to the selected producers and exporters of the subject merchandise through government-owned mills or through Salusala and that the government has not provided any assistance to the selected producers and exporters for improvement of existing mills or construction of new mills.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. As previously stated, we will not accept any statement in the response that cannot be verified in our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain textiles and textile products from Sri Lanka except for those of Texwood Industries, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amount of 2.79 percent *ad valorem* for certain testile mill products and 2.79 percent *ad*

valorem for apparel. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on these preliminary determinations at 2:00 on February 15, 1985, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 11, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: December 17, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix

List of TSUSA Codes Which Covered Sri Lanka's Exports of Certain Textile Mill Products and Apparel to the United States in 1983.

A. Textile Mill Products							
Textile Furnishings							
3630520	3633040	3635015	3635115	3635130	3641800	3657865	3661855
3661880	3662740	3662760	3662780	3664660	3667925	3676040	
Miscellaneous							
3855300	3865045						
B. Apparel							
Wearing Apparel							
3762430	3762830	3765408	3765609	3765612	3765630	3790215	3790615
3790620	3790630	3790640	3790645	3792320	3792350	3793110	3793120
3793905	3794020	3794030	3794050	3794060	3794140	3794330	3794610
3794650	3794660	3794670	3795220	3795520	3795530	3795535	3795540
3795545	3795550	3795560	3795565	3796210	3796220	3796230	3796240
3796250	3796260	3796270	3796445	3796470	3797250	3797620	3797630
3798340	3798735	3799030	3799035	3799220	3799520	3799525	3799530
3799540	3799550	3799555	3799575	3799580	3799585	3799643	3799650
3830210	3830215	3830233	3830260	3830505	3830506	3830520	3830610
3830611	3830615	3830616	3830620	3830805	3830820	3830841	3830850
3830860	3832005	3832052	3832205	3832225	3832305	3832340	3832352
3832360	3832706	3832707	3832708	3832709	3832720	3832725	3832730
3832731	3832750	3832820	3832830	3832835	3833040	3833050	3833200
3833405	3833415	3833435	3833445	3833446	3833448	3833450	3833460
3833465	3833466	3833770	3834015	3834300	3834702	3834704	3834705
3834709	3834711	3834715	3834720	3834721	3834730	3834747	3834749
3834753	3834755	3834761	3834763	3834765	3834818	3834825	3835035
3835036	3835038	3835039	3835047	3835049	3835052	3835062	3835072
3835078	3835082	3835086	3835088	3835090	3835304	3835830	3836345
3836360	3836371	3836640	3837210	3837540	3837550	3837560	3837708
3838002	3838004	3838005	3838043	3838045	3838073	3838110	3838114
3838145	3838160	3838620	3838665	3839010	3839015	3839020	3839025
3839030	3839035	3839040	3839041	3839050	3839051	3839060	3839065
3839070	3839071	3839225	3839235	3839245	3839270	3839273	3839276
3839290	3839291						
Gloves							
7044010	7044025	7044504	7044506	7044508	7045015	7048520	7048550
709000							
Luggage and Hand Bags							
7063640	7064111						

[FR Doc. 84-33277 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-471-401]

Termination of Countervailing Duty Investigation; Certain Textiles and Textile Products From Portugal

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On December 4, 1984, the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union withdrew their countervailing duty petition, filed on July 20, 1984, on certain textiles and textile products from Portugal. Their letter of withdrawal appears as Appendix A to this notice. Based on the withdrawal, we are terminating the countervailing duty investigation.

EFFECTIVE DATE: December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-3464.

SUPPLEMENTARY INFORMATION:

Petition

On July 20, 1984, we received a petition from counsel for the American Textile Manufacturers Institute (ATMI), the Amalgamated Clothing and Textile Workers Union (ACTWU), and the International Ladies' Garment Workers Union (ILGWU), filed on behalf of the domestic textile and textile products industry. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Portugal of certain textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate a countervailing duty investigation under section 303 of the Tariff Act of 1930, as amended. On August 9, 1984, we announced the initiation stating that we would issue a preliminary determination by October 15, 1984, if our investigation proceeded normally (49 FR 32644). We presented questionnaires concerning the allegations to the government of Portugal. On September 21, 1984, we postponed our preliminary determination to December 17, 1984,

because the case was found to be "extraordinarily complicated" (49 FR 40198).

On November 28, 1984, the Office of the U.S. Trade Representative announced that Portugal is a "country under the Agreement" as set out in section 701(b) of the Act (49 FR 47467). As a result, Title VII of the Act became applicable to the then pending countervailing duty investigation. According to section 102 of the Trade Agreements Act of 1979, once Title VII becomes applicable any pending investigation under section 303 of the Act must terminate. Where an initiation, but not a preliminary determination has been made under section 303, the case is to be treated as if it were initiated under section 702 of the Act the day Title VII first applied to that country. Normally, we would publish a notice terminating the investigation we initiated on August 9, 1984, and initiating a new countervailing duty investigation. However, prior to the completion of such a notice, we received petitioners' withdrawal of the petition.

Scope of the Investigation

The products covered by this investigation are certain textiles and textile products. The merchandise is currently classified under the item numbers of the *Tariff Schedules of the United States Annotated* (TSUSA) as listed in Appendix B to this notice.

Withdrawal of Petition

On December 4, 1984, petitioners notified us that they were withdrawing their petition, and requested that the investigation be terminated. Under section 704(a) of the Act (19 USC 1671c(a)), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have notified all parties to the investigation of petitioners' withdrawal and our intention to terminate and have consulted the International Trade Commission. Pursuant to § 355.30(a) of our regulations (19 CFR 355.30(a)), we have determined that termination of this case is in the public interest.

For these reasons, we are terminating our investigation of certain textiles and textile products from Portugal.

Dated: December 14, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix B

The products covered by this investigation are certain textiles and textile products, which are currently classified under the item numbers of the *Tariff Schedules of the United States, Annotated (TSUSA)* listed below.

List of TSUSA Codes Which Covered Portugal's Exports of Certain Textiles and Textile Products to the United States in 1983.

Yarns and Threads						
300.6028	301.9000	302.002	302.0024	302.1024	302.5026	303.2040
303.2042	305.1000					
Cordage						
	315.4000		316.5500		316.5800	
Woven Fabrics						
320.1092	321.2044	322.1018	322.1046	322.1058	332.1072	322.1074
322.1076	322.1092	322.1094	322.2044	322.2046	322.2072	322.2074
322.2080	322.2092	322.2094	322.5092	325.0072	325.0074	325.0076
325.0078	325.1072	325.1074	325.1076	325.1078	325.1084	325.1086
325.1092	325.1094	325.2072	325.2074	325.2084	325.2092	325.2094
325.3072	325.3084	325.3092	325.4092	325.6094	328.1064	328.1092
328.5094	331.1058	331.1064	331.2072	331.2086	331.2094	331.5094
335.6000	335.9500	336.6243	336.6247	336.6249	336.6251	336.6253
336.6447	338.1530	338.5006	338.5009	338.5010	338.5021	338.5024
338.5026	338.5033	338.5036	338.5043	338.5046	338.5064	338.5069
Special Construction Fabrics						
345.1040	346.3200	346.3530	346.3550	346.5200	347.6040	348.0065
348.0075	348.0565	348.0575	348.0580	351.8010	353.5052	353.5063
355.4530	355.4590	357.1500	357.7060			
Textile Furnishings						
360.1015	360.1515	360.1520	360.4215	360.4225	360.4815	360.4825
360.4855	360.7000	361.4200	361.4500	361.4600	361.4800	361.5000
361.5420	361.5426	363.0120	363.0140	363.0510	363.0515	363.0520
363.0525	363.0530	363.2562	363.2564	363.2575	363.2580	363.3010
363.3020	363.3030	363.3040	363.3500	363.4500	363.6030	363.6540
363.7500	363.8512	363.8515	363.8545	364.0700	364.1300	364.2300
364.3000	365.7817	365.7865	365.8300	365.8620	365.8670	365.8680
366.1840	366.2420	366.2460	366.2480	366.2720	366.2760	366.2780
366.3600	366.3900	366.4200	366.4600	366.5100	366.5400	366.6500
366.7500	366.7700	366.7930	367.6025	367.6040		
Wearing Apparel						
370.0400	370.0800	370.1200	370.2100	370.8000	370.8420	370.8440
370.8820	372.1030	372.1040	372.1520	372.1540	372.7000	372.7520
372.7540	373.1000	373.1500	373.2200	373.2700	374.4000	374.4500
374.5020	374.5040	376.5609	376.5612	376.5623	378.0550	378.0576
378.1520	378.1530	378.1535	378.1540	379.0220	379.0230	379.0240
379.0250	379.0260	379.0610	379.0615	379.0620	379.0630	379.0640
379.1720	379.2320	397.3120	379.3180	379.3190	379.3905	379.3925
379.3930	379.3940	379.3950	379.4020	397.4030	379.4040	397.4050
379.4060	379.4140	379.4330	379.4640	379.4670	379.4920	379.5220
379.5221	379.5510	379.5520	379.5530	379.5535	379.5545	379.5550
379.5565	379.6210	379.6230	379.6240	379.6270	379.6280	379.6410
379.6450	379.6470	379.7250	379.7510	379.7530	379.7605	379.7620
379.7630	379.7650	379.7850	379.7900	379.8311	379.8318	379.8351
379.8355	379.8360	379.8420	379.8735	379.9020	379.9030	379.9035
379.9510	379.9530	379.9555	379.9565	379.9575	383.0210	383.0215
383.0218	383.0221	383.0233	383.0305	383.0320	383.0335	383.0350
383.0390	383.0505	383.0506	383.0520	383.0615	383.0805	383.0810
383.0820	383.0825	383.0855	383.0860	383.1310	383.1315	383.1320
383.1340	383.1620	383.1807	383.1820	383.1857	383.1860	383.1910
383.2005	383.2013	383.2016	383.2035	383.2050	383.2060	383.2215
383.2230	383.2305	383.2315	383.2330	383.2335	383.2350	383.2360
383.2365	383.2706	383.2708	383.2709	383.2720	383.2725	383.2730

383.2731	383.2750	383.2810	383.2815	383.2820	383.2830	383.2835
382.2836	383.2910	382.2920	383.3010	383.3020	383.3030	383.3040
383.3060	383.3065	383.3070	383.3075	383.3080	383.3090	383.3445
383.3448	383.3465	383.4015	383.4300	383.4702	383.4705	383.4709
383.4711	383.4730	383.4761	383.4763	383.4814	383.4821	383.4823
383.4825	383.5035	383.5062	383.5072	383.5073	383.5086	383.5088
383.5090	383.5204	383.5212	383.5222	383.5226	383.5304	383.5308
383.5326	383.5395	383.5830	383.6200	383.6310	383.6340	383.6345
383.6371	383.6372	383.6395	383.6510	383.6520	383.6610	383.6630
383.6640	383.7000	383.7205	383.7210	383.7540	383.7550	383.7590
383.7868	383.8004	383.8006	383.8043	383.8045	383.8070	383.8073
383.8114	383.8115	383.8116	383.8125	383.8126	383.8146	383.8400
383.8620	383.8621	383.8622	383.8640	383.8645	383.8650	383.8665
383.8670	383.9015	383.9030	383.9050	383.9211	383.9225	383.9230
383.9245	383.9265	383.9290				

Miscellaneous			
385.6120	386.0430	386.5045	389.625

Headwear				
702.0600	702.5600	702.7500	703.0500	703.1000

Gloves
704.1520

Luggage and Handbags		
706.3640	706.4106	706.4150

[FR Doc. 84-33260 Filed 12-20-84; 8:45 am]
BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Restraint Limit for Certain Man-Made Fiber Textiles Produced or Manufactured in Indonesia

December 18, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 24, 1984. For further information contact James Nader, International Trade Specialist (202) 377-4212.

Background

On July 2, 1984 a directive to Customs dated June 27, 1984 was published in the **Federal Register** (49 FR 27194), which established limits for certain cotton and man-made fiber textiles and textile products, including man-made fiber yarn in Category 604, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1984 and extends through June 30, 1985. In reviewing trade in Category 604 from Indonesia, the Committee for the Implementation of Textile Agreements has concluded that only plied acrylic yarn in Category 604 (T.S.U.S.A. number 310.5049) need be controlled at this time. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to amend the directive of June 27, 1984 to establish an import control level of 592,248 pounds for Category 604 pt. (only T.S.U.S.A. number 310.5049).

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile agreements.

December 18, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of June 27, 1984 concerning imports of cotton and man-made fiber textiles and textile products, produced or manufactured in Indonesia and exported during 1984.

Effective on December 24, 1984, the directive of June 27, 1984 is hereby further amended to cancel the import restraint level established for category 604 and include instead a level of 529,248 pounds for Category 604 pt. (only T.S.U.S.A. number 310.5049).

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-33233 Filed 12-20-84; 8:45 am]
BILLING CODE 3510-DR-M

Announcing Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Haiti

December 17, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1985. For further information contact Eve Anderson, International Trade Specialist (202) 377-4212.

Background

The Bilateral Cotton, Wool, and Man-Made Fiber Textile agreement of February 17 and May 4, 1984, between the Governments of the United States and Haiti establishes specific limits for Categories 337, 347/348, 349/649, and 350, among others, during the agreement year beginning on January 1, 1985. It also provides consultation levels for Categories, such as Category 331, which are not subject to specific limits and which may be adjusted during the agreement year. In the latter which follows this notice the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilaterial agreement, to prohibt entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 331, 337, 347/348, 349/649, and 350, produced or manufactured in Haiti and exported during the twelve-month period which begins on January 1, 1985, in excess of the designated restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was

published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

This letter and the actions taken pursuant to it are not designed to implement all of the provilsions of the bilaterial agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 17, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 17 and May 4, 1984, as amended, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories produced or manufactured in Haiti and exported during the twelve-month period beginning on January 1, 1985 in excess of the indicated restraint limits:

Category	12-mo. level of restraint
331	533,429 dozen pairs.
337	144,450 dozen.
347 and 348	428,765 dozen.
349 and 649	1,715,060 dozen.
350	32,149 dozen.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Haiti, which have been exported on and after January 1, 1984, shall, to the extent of any unfilled balances, be charged against the restraint limits established for such goods during that twelve-month period. In the event those limits have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of February 17 and May 4, 1984, as amended, between the Governments of the United States and Haiti which provide, in part, that: (1) Specific limits shall be increased by seven percent annually; (2) a specific ceiling may be exceeded in any agreement year by not more than seven percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent decrease in one or more specific limits; (3) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-33218 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-DR-M

Amending the Export Visa and Quota Requirements for Certain Cotton and Man-Made Fiber Apparel Products Produced or Manufactured in the Philippines

December 17, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1985. For further information contact Diana Solkoff, International Trade Specialist (202) 377-4212.

Background

On September 21, 1984 a notice was published in the **Federal Register** (49 FR 37139), which announced that entry of boyswear in sizes 0-7, produced or manufactured in the Philippines and exported during 1984 in Categories 335, 336, 337, 341, 342, 348, 352, 359, 635, 636, 637, 641, 642, 646, 648, 652 and 659, would be permitted if visaed as "T" (Traditional) and included in a shipment predominantly consisting of infants wear in sizes 0-6X. It further provided that boyswear in sizes 0-7 in the foregoing categories, exported during 1984, would be charged to the limits established for the "T" segments of the affected categories. The letter to the Commissioner of Customs which follows this notice amends the directive of September 17, 1984 to the Commissioner of Customs to extend this practice through 1985.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 17, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of September 17, 1984 concerning certain cotton and man-made fiber apparel products, produced or manufactured in the Philippines and exported during 1984.

Effective on January 1, 1985, paragraphs 2 and 3 of the directive of September 17, 1984 are amended to extend the effective period through December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-33217 Filed 12-20-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1985 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: December 21, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 27, August 17, September 14, and

October 12, 1984 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (49 FR 18152, 49 FR 32898, 49 FR 40077 and 49 FR 36133) of proposed additions to and deletion from Procurement List 1985, October 19, 1984 (49 FR 41195).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1985:

SIC 0782

Grounds Maintenance, U.S. Postal Service, 1088 Nandino Boulevard, Lexington, Kentucky

SIC 7349

Janitorial Service, Naval Research Laboratory, Buildings 1, 2, 28, 32, 42, 43–43A, 49, 60, 72, 97, 222 and A–49, Washington, D.C.

Janitorial/Custodial, C.F. Haynesworth Federal Building and U.S. Courthouse, 300 East Washington Street, Greenville, South Carolina

Janitorial/Custodial, U.S. Courthouse, 120 North Henry Street, Madison, Wisconsin

Deletions

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby deleted from Procurement List 1985:

SIC 7441

Mailing Service U.S. Metric Board, 1815 N. Lynn Street, Arlington, Virginia

C.W. Fletcher,

Executive Director

[FR Doc 84–33223 Filed 12–20–84, 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1985; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1985 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: January 23, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1985, October 19, 1984 (49 FR 41195):

Class 6840

Disinfectant, Detergent: 6840–00–926–1686

Class 8465

Strap, Shoulder with Quick Release: 8465–01–078–9282

(Requirements for Mechanicsburg, Pennsylvania and Richmond, Virginia depots only)

SIC 7349

Janitorial/Custodial, Naval Air Station, Whidbey Island, Building 102, Oak Harbor, Washington

SIC 7349

Commissary Shelf Stocking and Custodial, Goodfellow Air Force Base, Texas

C.W. Fletcher,

Executive Director.

[FR Doc. 84–33222 Filed 12–20–84; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee, Space Exploitation Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Palen Advisory Committee Space Exploitation Task Force will meet 14 January 1985, from 9 a.m. to 5 p.m., at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review Navy space issues. The entire agenda for the meeting will consist of discussions of key issues regarding the Navy's role in the military exploitation of space and related intelligence. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756–1205.

Dated: December 18, 1984.

William F. Roos, Jr.

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84–33213 Filed 12–20–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Grants to State Educational Agencies to Improve the Interstate and Intrastate Coordination of Migrant Education Activities

AGENCY: Department of Education.

ACTION: Application Notice for Fiscal Year 1985 (Program Year 1985–86).

Applications are invited for new grants under the Migrant Education

Interstate and Intrastate Coordination Program.

The authority for this program is contained in section 143 of Title I of the Elementary and Secondary Education Act (Title I, ESEA) as incorporated by section 554(a) of Chapter 1 of the Education Consolidation and Improvement Act. Eligible applicants are State educational agencies (SEAs), which may apply individually or cooperatively (i.e., as a group or consortium). The purpose of the program is to provide financial assistance for projects designed to improve the interstate and intrastate coordination of migrant education activities among SEAs, local educational agencies, and other operating agencies.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 15, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.144, Washington, D.C. 20202.,

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (a) A private metered postmark; or (b) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant SEA should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The regulations for this program are contained in 34 CFR Part 205. An applicant should refer to these regulations for information on the types of activities that may be conducted (34 CFR 205.11), the development of a grant application (34 CFR 205.20–21), and the criteria that will be used to evaluate applications in the selection of grantees (34 CFR 205.31).

Projects supported under this program will be for a period of one year.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	Florida	Louisiana
Arizona	Hawaii	Maine
Arkansas	Illinois	Maryland
California	Indiana	Massachusetts
Connecticut	Iowa	Michigan
Delaware	Kansas	Mississippi
Missouri	North Mariana Islands	Texas
Montana	Oklahoma	Utah
Nebraska	Ohio	Vermont
Nevada	Oregon	Virginia
New Hampshire	Pennsylvania	West Virginia
New Jersey	Puerto Rico	Wisconsin
New Mexico	Rhode Island	Wyoming
New York	South Carolina	Washington
North Carolina	Tennessee	Guam
North Dakota		Virgin Islands

Immediately upon receipt of this notice, applicants that are governmental entities must contact the appropriate State single point of contact to find out about, and comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by April 16, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.144), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available funds: Approximately $2,065,600 will be available for Fiscal Year 1985 awards. It is estimated that these funds will support about 15 projects with most awards between $80,000 and $200,000. Applicants are notified that the Secretary may elect to fund some of these projects as cooperative agreements (rather than grants) between the U.S. Department of Education and the applicant under section 415 of the Department of Education Organization Act and Title 31, United States Code, "Money and Finance," Chapter 63, "Using Procurement Grants and Grant and Cooperative Agreements" (Pub. L. 97–258). These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or

cooperative agreements or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to all SEA's by December 28, 1984. An applicant SEA may obtain additional forms and program information packages by writing to Mr. Louis J. McGuinness, Director, Division of Migrant Education, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3616), Washington, D.C. 20202.

An applicant SEA must prepare and submit its application in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary strongly urges that the narrative portion of an application not exceed 20 pages. The Secretary also urges that an applicant not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810-0511.)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Migrant Education Interstate and Inrastate Coordination Program in 34 CFR Part 205, published in the **Federal Register** at 48 FR 34646-34648 (July 29, 1983).

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

Further information: For further information, contact Mr. Louis J. McGuinness, Director, Division of Migrant Education, Compensatory Education Programs, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3616), Washington, D.C. 20202. Telephone (202) 245-2722.

(20 U.S.C. 3803(a))

(Catalog of Federal Domestic Assistance No. 84.144; Migrant Education—Interstate and Intrastate Coordination Program)

Dated: December 18, 1984.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 84-33221 Filed 12-20-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Korea; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (452 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned Agreement involves the joint determination that safeguards may be effectively applied to the Daeduck research facility, and the approval of the United States to the alteration in form or content of irradiated fuel elements from the KORI-1 reactor. The aforementioned determination has been made, and the approval of the United States for the post-irradiation examination of irradiated fuel elements from the KORI-1 reactor is granted pending publication of this notice.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it had been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 18, 1984.

Jan W. Mares,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 84-33282 Filed 12-20-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket 84-14-NG]

Northwest Alaskan Pipeline Company (Eastern Leg); Application To Amend Current Natural Gas Import Authorization

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Issuance of Opinion and Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on December 13, 1984, the ERA Administrator issued an Opinion and Order approving Northwest Alaskan Pipeline Company's (Northwest Alaskan) application to amend and unconditionally extend the term of its current authorization to import natural gas from Canada through the Eastern Leg of the Alaska Natural Gas Transportation System (ANGTS). The approval authorizes separate and distinct pricing and take provisions for each of Northwest Alaskan's three U.S. repurchasers of gas, an extension in the term of the authorization from October 31, 1988, to October 31, 2002, and removal of certain conditions imposed by the Federal Energy Regulatory Commission on its current import authorization.

The text of the Opinion and Order follows.

FOR FURTHER INFORMATION CONTACT:

John Glynn, (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9482

Diane Stubbs, (Office of General Counsel, Natural Gas and Mineral Leasing), U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667.

Issued in Washington, D.C., on December 14, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic

Regulatory Administration.

Order Removing Conditions and Amending Authorization To Import Natural Gas From Canada and Granting Intervention

[DOE/ERA Opinion and Order No. 67]

December 13, 1984.

I. Background

Northwest Alaskan Pipeline Company (Northwest Alaskan) is currently authorized to import on an average annual daily basis up to 800 MMcf per day of Canadian natural gas from Pan-Alberta Gas Ltd. (Pan-Alberta) at the international boundary near Monchy, Saskatchewan. The natural gas imported by Northwest Alaskan is resold to Northern Natural Gas Company (Northern), a Division of InterNorth, Inc., Panhandle Eastern Pipe Line Company (Panhandle), and United Gas Pipe Line Company (United) and transported through the Eastern Leg of the Alaska Natural Gas Transportation System (ANGTS) prebuilt facilities.

On October 16, 1984, Northwest Alaskan filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act (NGA), Section 9 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), and DOE Delegation Order No. 0204–111,[1] to remove certain conditions from its existing natural gas import authorization, to authorize changes to its gas sales contract with Pan-Alberta, and to extend the term of its authorization.

Northwest Alaskan purchases Canadian natural Gas from Pan-Alberta pursuant to a gas sales contract dated March 9, 1978, as amended (Eastern Contract). Northwest Alaskan resells this gas to Northern, Panhandle and United Pursuant to their respective gas purchase agreements dated March 19, 1978, April 14, 1978, and March 9, 1978, as amended. The natural gas is transported over the eastern portion of the ANGTS prebuild, an 823-mile pipeline system owned by the Northern Border Pipeline Company (Northern-Border) which extends from the Montana-Saskatchewan border to its present terminus near Ventura, Iowa.

In orders issued April 28, 1980,[2] and June 20, 1980,[3] the Federal Energy Regulatory Commission (FERC), pursuant to Section 3 of the NGA and Section 9 of the ANGTA, authorized Northwest Alaskan to import 800 MMcf per day through October 31, 1988. On December 15, 1983,[4] the FERC extended the import authorization through October 31, 1992, to be consistent with the export license granted to Pan-Alberta by the Canadian National Energy Board (NEB). However, the FERC conditioned its extension by requiring Northwest Alaskan to (1) renegotiate its Eastern Contract with Pan-Alberta and its purchase agreements with Northern, Panhandle, and United to provide for market-responsive prices and volume obligations; (2) submit contract amendments and necessary tariff changes; and (3) obtain regulatory approval from the ERA, FERC, and NEB.

Northwest Alaskan stated in its application that the first two conditions imposed by the FERC in its December 15 order have been met with this filing and that regulatory approval by the ERA, FERC, and NEB will satisfy the third condition. The NEB subsequently on November 2, 1984, approved the new pricing and volume provisions.

Northwest Alaskan asserted that its revised contracts with Pan-Alberta and its three pipeline repurchasers provide sufficient price and volume flexibility to make the import arrangement responsive to market changes and consistent with the Secretary of Energy's policy guidelines for the importation of natural gas.[5] The renegotiated contract between Northwest Alaskan and Pan-Alberta contains three amendments, which provide for different price and volume obligations for each of the three pipeline repurchasers; these amendments correspond to the changes to be made in the respective gas purchase agreements of Northern, Panhandle and United. In addition, a fourth amendment to the Eastern Contract allocates the maximum daily quantity of 800 MMcf among the three U.S. purchasers according to their volume entitlements under the gas purchase agreements. Northwest Alaskan requested that the amendments be approved effective November 1, 1984.

Northern

Specifically, the amendment directed to Northern establishes a minimum daily volume obligation requiring Northern to take *and* pay for 20 percent of Northern's maximum daily quantity in the seven months of April through October and 40 percent in the five winter months of November through March. For the 1984–85 contract year, the minimum annual take-*and*-pay obligation is 50 percent, and For the 1985–86 contract year, it is 60 percent. In addition, there is a 60 percent take-*or*-pay obligation with a $0.32 (U.S.) per McF settlement to be paid for any deficiency below the take-or-pay level.

The amendment also provides for a demand-commodity rate structure for the volumes sold to Northern. The demand component, which is estimated to be $2.8 million monthly, will consist of (1) the administrative costs incurred by Pan-Alberta in connection with securing and arranging for the transportation of the gas; (2) the cost of transporting volumes resold to Northern through Zones 8 and 9 of the ANGTS prebuilt facilities of Foothills Pipeline (Yukon) Ltd. (Foothills); (3) the cost of gathering and transporting volumes resold to Northern through the facilities of NOVA, AN ALBERTA CORPORATION (NOVA); and (4) the administrative costs incurred by Northwest Alaskan for purchase and resale of Canadian gas at the U.S.-Canadian border. The demand charge will be redetermined every six months on January 16, and July 1, provided that all Canadian-incurred costs have been reviewed and found acceptable by the NEB. If actual costs differ from those used to compute the demand charge, any overcharges or undercharges would be determined and applied to the next six months at the time of the semiannual redetermination. The Foothills and NOVA charges would be renegotiated if they are substantially increased for reasons including cost allocation, major expansion, or rate design.

The applicant stated that the commodity component will provide for a price at the international border which will enable the gas to be competitive in Northern's market area. For the 1984–85 contract year, the commodity rate will be $2.40 (U.S.) per MMBtu for volumes up to 85 percent of Northern's maximum daily quantity times the number of days in the year. For the 1985–86 contract year, the commodity rate will be $2.45 (U.S.) for such volumes. An incentive rate of $2.30 (U.S.) for volumes purchased each year above 85 percent will apply for both years. Commencing

[1] On February 15, 1984, the Secretary of Energy, in Delegation Order 0204–111, delegated the authority to the Administrator of the ERA to regulate the importation and exportation of natural gas under Section 3 of the Natural Gas Act, including imports through the ANGTS (49 FR 6690, February 22, 1984).

[2] *Northwest Alaskan Pipeline Company*, Docket Nos. CP 78–123, *et al.*, 11FERC ¶ 61,088.

[3] *Northwest Alaskan Pipeline Company*, Docket Nos. CP 78–123, *et al.*, 11FERC ¶ 61,302.

[4] *Northwest Alaskan Pipeline Company*, Docket Nos. CP 78–123–021, *et al.*, 25 FERC ¶61,384.

[5] 49 FR 6684, February 22, 1984.

November 1, 1986, the commodity charge and the minimum volume obligations applicable during each contract year will be redetermined through renegotiation, or failing agreement, arbitration.

Panhandle

The minimum daily volume obligation requires Panhandle to take *and* pay for 30 percent of Panhandle's maximum daily quantity. For the 1984–85 contract year, there is a minimum annual take obligation of approximately 37 percent, and a minimum annual take-*or*-pay of 50 percent, with a $0.32 (U.S.) per Mcf settlement to be paid for any deficiency below the take-*or*-pay level.

The amendment includes a demand-commodity rate structure. The demand component is estimated to be $2.1 million monthly. The provisions governing the demand component are the same as for Northern.

The commodity component for the 1984–85 contract year will be $2.14 (U.S.) per MMBtu for volumes purchased up to Panhandle's annual take obligation (37 percent), $2.20 (U.S.) per MMBtu for any additional volumes purchased up to the take-*or*-pay level of 50 percent, and for all volumes over 50 percent the price will be set quarterly by Pan-Alberta after consultation with Northwest Alaskan and Panhandle concerning the anticipated condition of Panhandle's market. Commencing November 1, 1985, the commodity charge and the minimum volume obligations applicable during each contract year will be redetermined by negotiation, or failing agreement, arbitration.

United

The United agreement eastablishes different price and take provisions, with three tiers. The minimum daily volume obligation (Tier I) requires United to take *and* pay for 33⅓ percent. There is no take-*or*-pay obligation.

For Tier I volumes, the initial price will equal the Alberta border price ($2.31 U.S. effective August 1, 1984), plus (1) Foothills' transportation charges for the volumes, and (2) United's share of the cost of fuel and line pack on Foothill's system. The applicant asserts that this price is a minimum floor designed to cover the cost of Canadian prebuilt facilities and return a price at the Alberta border consistent with the price established by the Alberta Petroleum Marketing Commission. This price is subject to renegotiation each May 1 and November 1, at the request of either party. If no agreement is reached, the matter will be resolved by arbitration.

Additional volumes (Tier II) up to United's maximum daily quantity which, when added to the Tier I volumes make the weighted average price of United's purchases under this contract equal the weighted average price of United's domestic gas purchases, may be purchased at a price equal to the Alberta border price plus the cost of fuel required to transport the gas through the Foothills system.

United will have an obligation to purchase any remaining contract volumes (Tier III volumes) at a price offered by Pan-Alberta if that price is less than the price of any of the domestic gas supplies purchased by United. If the price for such Tier III volumes is equal to that of any of United's domestic supplies, United must purchase the Tier II volumes on a proratable basis with such equally priced domestic gas. Each month Pan-Alberta will determine the price at which to offer Tier III volumes based on prevailing conditions in United's market.

In addition to the above, United will also pay Northwest Alaskan each month for the administrative costs it incurs in the purchase and resale of United's volumes at the U.S.-Canadian border.

Northwest Alaskan stated in its application that the proposed contract amendments are tailored to each of the three U.S. purchasers' markets in order to make Canadian natural gas continually market-sensitive throughout the term of the contracts. Under the proposed contract amendments and based upon the minimum take-*and*-pay volume obligations of each of the three U.S. purchasers, Northwest Alaskan estimated that the average unit cost of gas purchased under the Eastern Contract for the 1985 contract year would be $3.35 (U.S.) per MMBtu at the border. Northwest Alaskan maintained that the per unit cost to its three U.S. purchasers would approximate $4.00 (U.S.) per MMBtu if the proposed contract amendments were not approved. If each of the three U.S. purchasers took 100 percent of their contracted volumes under the amendment for the 1985 contract year, Northwest Alaskan estimated the unit cost of the gas would be about $2.71 (U.S.) per MMBtu for United and Panhandle, and about $2.92 (U.S.) per MMBtu for Northern Northwest Alaskan further maintained that approval of these proposed amendments would result in a savings of $617 million (U.S.) in the 1985 contract year.

Northwest Alaskan stated that the proposed contract amendments will allow Canadian gas to compete in U.S. markets. Hence, Northwest Alaskan requested that the ERA find its amendments in compliance with the ERA's new policy guidelines, remove the conditions imposed by the FERC in the December 15, 1983, order and unconditionally extend its import authority for a term to coincide with the terms of its Eastern Contract and the gas purchase agreements with its three U.S. purchasers which extend through October 31, 2002. Alternatively, Northwest Alaskan requested an extension through October 31, 1996, consistent with the export authorization sought by Pan-Alberta before the NEB.

Furthermore, Northwest Alaskan contended that approval of this application is in the public interest. It asserted that the amendments ensure that the prices are responsive to conditions in the individual U.S. markets, and that they will remain market-sensitive throughout the life of the contracts. Northwest Alaskan claimed the gas will be needed as the present surplus of gas dissipates by the late 1980's, and that the extension will not cause undue reliance on Canadian imports. Northwest Alaskan also claimed that Canadian imports represent a more secure and dependable energy supply than OPEC oil. Northwest Alaskan also asserted that since its purchasers and their customers have borne the early initial costs of transportation of Canadian gas through the Eastern Leg of the prebuilt ANGTS system, they should also receive the benefits that will accrue to them from the proposed extension—an additional secure and dependable supply of Canadian gas through the ANGTS system with the attendant lower transportation charges resulting from declining depreciation and related expenses.

Finally, Northwest Alaskan stresses the importance of the import authorization extension by asserting that it will provide Northern Border Pipeline Company, the transporter of the Eastern Contract volumes, an opportunity to lower its cost of service on a long-term basis and thus make the transportation of these volumes more economical. Northern Border has filed for such a tariff and certificate extension with the FERC in Docket Nos. RP85–25–000 and CP78–124–009.

II. Interventions

On October 23, 1984, the ERA issued a notice of Northwest Alaskan's application, inviting protests or motions to intervene, which were to be filed by November 26, 1984.[6] The ERA received

[6] 49 FR 43091, October 26, 1984.

nine motions to intervene in this preceeding.[7] None of the parties opposed the application, or requested further proceedings. Four movants, Panhandle, United, Pan-Alberta and Foothills, submitted comments supporting the application. Panhandle stated in its motion that the proposed contract amendments will "* * * allow Canadian gas to compete in the United States, will ensure that prices for Canadian gas in United States markets are market-sensitive, and will result in lower gas costs to Northwest Alaskan's customers and to ultimate consumers." Pan-Alberta, in its motion, stated that ERA approval of Northwest Alaskan's application "* * * will serve the public interest by enhancing the economic soundness of the ANGTS prebuild project and thus helping to ensure the long term availability of competitive, secure, and reliable Canadian gas supplies for U.S. consumers."

III. ANGTA Jurisdiction

On February 15, 1984, the Secretary of Energy in Delegation Order 0204–111, delegated to the Administrator authority under Section 3 of the Natural Gas Act to regulate the importation of natural gas in connection with the construction and operation of ANGTS. This authority previously was delegated to the FERC.

The FERC has determined in a series of orders,[8] including the previously cited 1980 authorizations of this import and the subsequent December 15, 1983, conditional extension, that the importation of natural gas for transportation through the prebuilt facilities of the ANGTS is related to the construction and initial operation of the ANGTS within the meaning of Section 9 of the ANGTA.[9] In so finding, the FERC reasoned that:

> Inasmuch as the Northern Border and Western Leg segments of the ANGTS originate at the Canadian border, any decision affecting the volumes of gas transported through its 'prebuilt' segments of the ANGTS, or the price paid by consumers of such gas (and thereby, its marketability), could have an impact on the financial viability of those segments, which in turn could have an impact on the willingness of lenders and investors to finance the Alaskan segment. Thus, even though the 'prebuilt' sections have now been constructed and have gone into operation, imports of additional volumes of Canadian gas through these segments are clearly related to the financial viability of the Alaskan segment and of the ANGTS itself as a coherent system to transport gas from the North Slope of Alaska to the lower-48 states.[10]

This reasoning applies with equal validity to Northwest Alaskan's present request. Northwest Alaskan's present application is related to the construction and initial operation of ANGTS, within the meaning of Section 9 of ANGTA. Pursuant to Section 9 of ANGTA, Northwest Alaskan's application was reviewed expeditiously and this final decision on the application took precedence over similar import applications.

IV. Decision

Northwest Alaskan's application has been evaluated to determine if the arrangement meets the public interest requirement of Section 3 of the NGA. Under section 3, an import is to be authorized unless there is a finding that it will not be consistent with the public interest. The Administrator is guided by the Secretary of Energy's February 1984 policy on natural gas imports, wherein the competitiveness of the arrangement is a key consideration is assessing the public interest. The need for the import and the security of the supply are other considerations set forth in the policy.

The assessment of this application also took into account the uniquensee of the prebuild as part of the ANGTS, and the commitments of the Canadian and U.S. Governments to the ANGTS. In announcing the approval of the renegotiated contract between Northwest Alaskan and Pan-Alberta on November 2, 1984, the Canadian NEB gave special consideratioin to this import arrangement, exempting it from its export policy guidelines by allowing an average export price below the Toronto wholsale price. Similarly, the FERC has taken two actions in the last few months which reaffirm the commitment to the ANGTS prebuild. On July 30, 1984, in Order No. 380A,[11] the FERC stated that Order No. 380[12] does not apply to Northwest Alaskan's sales sales tariff and on October 24, 1984, in Order No. 380C,[13] the FERC reiterated that Order No. 380 does not apply to the minimum take provision of Northwest Alaskan's tariff.

The renegotiated gas sales contract between Northwest Alaskan and Pan-Alberta, by providing separate and distinct pricing and volume arrangements for each of its three U.S. purchasers (Northern Panhandle, United), provides for a substantially more flexible and market-oriented import arrangement than currently exists. The contract amendments contain reduced purchase obligations, demand-commodity type rate structures, frequent opportunities for renegotiation, volume-related price incentives, and arbitration provisions. The agency finds that these specific features of the renegotiated contract are sufficient to assure these purchasers a competitive and market-responsive supply of natural gas over the term of the contract.

Northwest Alaskan asserted in its application that the new contract amendments will ". . . ensure Northern, Panhandle and United of required and reliable Canadian gas supplies through 1996." As recognized in the Secretary of Energy's gas import policy statement, the question of the need for an import is intrinsically tied to its competitiveness. Given the fact that commercial parties freely negotiated the proposed import arrangement, tailoring it to the requirements of the specific markets served, the finding that the import should remain competitive through the term of the contract, and that the issue of need for the Northwest Alaskan volumes has not been contested in this proceeding, the agency determines that there is a need for this imported gas.

Natural gas from Canada has been imported into a wide range of domestic markets for many years and there has been nothing that would call into question Canada's future reliability as a supplier of natural gas to this country. Neither has this issue been contested in this proceeding. As long as Canadian gas suppliers maintain their historical reliability and are competitively priced, the ERA believes these supplies can continue to help fill the gap between domestic production and total demand.

Northwest Alaskan has requested an extension of its current import authority for a term commensurate with the terms of its gas sales contract with Pan-Alberta and its gas purchase agreements

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[7] TransCanada PipeLines Limited, Inter-City Gas Corporation, Northern Natural Gas Company, Division of InterNorth, Inc., Northern Border Pipeline Company, Panhandle Eastern Pipe Line Company, Pan-Alberta Gas Ltd., Foothills Pipe Lines (Yukon) Ltd., Texas Eastern Transmission Corporation, and United Gas Pipe Line Company.

[8] See, e.g., the orders issued on January 11, 1980 (10 FERC ¶ 61,032 at pp. 61,079 and 61,087), April 28, 1980 (11 FERC ¶ 61,088 at pp. 61,138 and 61,191), October 1, 1981 (17 FERC ¶ 61,001 at pp. 61,002 and 61,004) and August 18, 1982 (20 FERC ¶ 61,197 at pp. 61,382 and 61,385). See also *Midwestern Gas Transmission Co. v. F.E.R.C.*, 589 F. 2d 603, 614–616 (D.C. Cir. 1978); *Iowa State Commerce Commission v. Federal Inspector*, 730 F. 2d 1566, 1571 (D.C. Cir. 1984).

[9] 15 U.S.C. 719g.

[10] 25 FERC ¶ 61,384 at p. 61,843.

[11] FERC Statues and Regulations, ¶ 30,584.

[12] FERC Statues and Regulations, ¶ 30,571. Order No. 380 amended the FERC's regulations by eliminating from natural gas pipeline tariffs any minimum commodity provisions that operate to recover variable costs. The objectives of that Order were to increase incentives to buy lower cost gas, increase competition among pipeline supplies, and ecourage contract renegotiation.

[13] FERC Statues and Regulations, ¶ 30,607.

with its three U.S. customers which extend through October 31, 2002. Alternatively, Northwest Alaskan requested an extension through October 31, 1996, consistent with Pan-Alberta's request of the Canadian NEB to extend its export authorization. The ERA agrees with Northwest Alaskan that an extension of the import authority through October 31, 2002, will provide the greatest opportunity for cost of service reductions and completion of the ANGTS.

Overall, this import arrangement is reasonable, flexible and market competitive when viewed as a whole. Futhermore, no member of the public came forward to contend the contrary, or that it was otherwise inconsistent with the public interest. Northwest Alaskan has satisfactorily demonstrated that its imported gas will be competitive for each of its three U.S. pipeline repurchasers and that the contract amendments contain sufficient flexibility to respond to the anticipated needs of their markets.

After taking into consideration all information in the record of this proceeding, I find that the authorization requested by Northwest Alaskan is not inconsistent with public interest and should be granted.

Order

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act and section 9 of the Alaska Natural Gas Transportation Act, it is ordered that:

A. The import authorization previously issued by the Federal Energy Regulatory Commission to Northwest Alaskan Pipeline Company (Northwest Alaskan) under Docket Nos. CP78–123, *et al.*, on April 28, 1980 (11 FERC ¶ 61,088), and June 20, 1980 (11 FERC ¶ 61,302), as amended in Docket Nos. CP78–123–021, *et al.*, on December 15, 1983 (25 FERC ¶ 61,384), is hereby further amended to remove the conditions imposed on its current authorization and thereby extend the term of its authorization from October 31, 1988, to October 31, 1992, and to extend further the term of its authorization from October 31, 1992, to October 31, 2002, in accordance with the pricing and other provisions established in the contracts submitted as part of its application.

B. The effective date of this order is November 1, 1984.

C. With respect to the natural gas authorized by this Order, Northwest Alaskan shall file with the ERA in the month following each calendar quarter, quarterly reports showing, by month, the quantities of imported gas resold to each of its three U.S. pipeline repurchasers and the average price, on an MMBtu basis, paid by each of these three pipeline companies. The pricing and volume data shown for United Gas Pipe Line Company should be by price tier category and the pricing data for Panhandler Eastern Pipe Line Company and Northern Natural Gas Company should depict the demand and commodity components of the price.

D. The motions of intervention, as set forth in this Opinion and Order, are hereby granted, subject to such rules of practice and procedures as may be in effect, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their motions of intervention and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., December 13, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 84–33281 Filed 12–20–84; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 84–15–NG]

Northwest Alaskan Pipeline Company (Western Leg) Application To amend Current Natural Gas Import Authorization

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Issuance of Opinion and Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on December 13, 1984, the ERA Administrator issued an Opinion and Order approving Northwest Alaskan Pipeline Company's (Northwest Alaskan) application to amend and unconditionally extend the term of its current authorization to import natural gas from Canada through the Western Leg of the Alaska Natural Gas Transportation System (ANGTS). The approval authorizes the establishment of new pricing provisions, a reduction in minimum take requirements, provision for renegotiation of the terms of the contract, an extension in the term of the authorization from October 31, 1988, to October 31, 2001, and removal of certain conditions imposed by the Federal Energy Regulatory Commission on its current import authorization.

The text of the Opinion and Order follows.

FOR FURTHER INFORMATION CONTACT:

M.G. Boehl (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6050

Diane J. Stubbs (Office of General Counsel, Natural Gas and Mineral Leasing), U.S. Department of Energy, Forrestal Building, Room 6E–042 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6667.

Issued in Washington, DC., on December 14, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

Order Removing Conditions and Amending Authorization To Import Natural Gas From Canada and Granting Intervention

[DOE/ERA Opinion and Order No. *68*]

December 13, 1984.

I. Background

On October 16, 1984, Northwest Alaskan Pipeline Company (Northwest Alaskan) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, Section 9 of the Alaska Natural Gas Transportation Act (ANGTA), and DOE Delegation Order No. 0204–111,[1] to remove conditions placed on an extension of the import authorization by the Federal Energy Regulatory Commission (FERC), to authorize changes in its import contract provisions with Pan-Alberta Gas Ltd. (Pan-Alberta), and to extend the duration of the import contract.

In orders issued January 11, 1980,[2] and June 13, 1980,[3] the FERC authorized Northwest Alaskan to import on an average annual daily basis up to 240,000 Mcf of Canadian natural gas from Pan-Alberta at the Canadian border near Kingsgate, British Columbia. The natural gas is immediately sold at the border to Pacific Interstate Transmission Company (PIT), which transmits it over

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[1] On February 15, 1984, the Secretary of Energy, in Delegation Order 0204–111, delegated the authority to the Administrator of the ERA to regulate the importation and exportation of natural gas under Section 3 of the Natural Gas Act, including imports through the ANGTS. (49 FR 6690, February 22, 1984).

[2] *Northwest Alaskan Pipeline Company*, Docket Nos. CP78–123, *et al.*, 10 FERC ¶61,032.

[3] *Northwest Alaskan Pipeline Company*, Docket Nos. CP78–123, *et al.*, 11 FERC ¶61,279.

the Western Leg of the prebuilt Alaska Natural Gas Transportation System (ANGTS) and then over other pipelines for sale to Southern California Gas Company (SoCal).

In 1980, the FERC approved the imports through October 31, 1988. However, on December 15, 1983,[4] the FERC extended the import authorization through October 31, 1992, to correspond to an export authorization to Pan-Alberta by the National Energy Board (NEB) of Canada. The FERC conditioned its extension by requiring Northwest Alaskan to (1) renegotiate its Western Contract with Pan-Alberta and its purchase agreement with PIT to provide for market-responsive prices and volume obligations, (2) submit contract amendments and necessary tariff changes, and (3) obtain regulatory approval from the ERA, FERC and NEB.

Northwest Alaskan states in its application that the first two conditions have been met by its instant filing and that regulatory approval by the ERA, FERC, and NEB will satisfy the third condition. The NEB subsequently approved the new pricing and volume provisions.

The terms of the original contract between Pan-Alberta and Northwest Alaskan called for delivery on an average daily basis of up to 240,000 Mcf of natural gas over the Western Leg through 1988 at the Canadian border price. Northwest Alaskan was required to take and pay for a minimum of 50 percent of the authorized imported volumes on a daily basis and to take and pay for a varying amount on an annual basis, about 85 percent in contract year 1984–85.[5] These terms were reflected in Northwest Alaskan's contract with PIT.

The amendment agreed to by Northwest Alaskan and Pan-Alberta on November 1, 1984, establishes a rate structure comprised of a demand and a commodity component. The demand component consists of a combination of (1) administrative costs incurred by Pan-Alberta in connection with securing the gas and arranging transportation and sale of the gas from the Province of Alberta; (2) the cost of transporting the volumes resold to PIT through Zones 7 and 8 of the ANGTS prebuilt facilities of Foothills Pipe Lines (Yukon) Ltd. (Foothills); (3) the cost of gathering and transporting volumes ultimately resold to PIT through the facilities of NOVA, AN ALBERTA CORPORATION (NOVA); and (4) the administrative costs incurred by Northwest Alaskan for purchase and resale of the gas at the U.S.-Canadian border. The demand charge is currently projected to be $4 million per month.

The demand charge would be redetermined every six months on January 1 and July 1, provided that all Canadian-incurred costs have been reviewed and found acceptable by the NEB. If actual costs differ from those used to compute the demand charge, any overcharges or undercharges would be determined and applied to the six-month period following the redetermination. PIT would have the right to audit the charges. The Foothills and NOVA charges would be subject to renegotiation if they are substantially increased for reasons including cost allocation, major expansion, or rate design.

The commodity charge, also subject to recalculation every six months, would be a price at the U.S.-Canadian border based on a formula which takes into consideration changes in the recent cost of all other gas supplies purchased by SoCal or its affiliates for resale in the Southern California gas market. Pan-Alberta would have the right to verify this calculation. This would be, in effect, the price the Alberta producers receive for the gas, to which transportation charges to the border and through the PIT system be added.

The commodity charge will initially be established at $2.40 (U.S.) per MMBtu. The amendment also establishes an incentive price of $2.30 (U.S.) per MMBtu for volumes purchased per year in excess of 85 percent but not exceeding 100 percent of the contract volume. The incentive rate will be renegotiated at the same time the base commodity rate is redetermined.

The amendment further provides for a reduction in the minimum daily and annual volume purchase obligation from 85 percent of contract volume to a 60 percent take-*and*-pay requirement daily and yearly. There is no take-*or*-pay requirement.

Northwest Alaskan requests that the ERA remove the conditions imposed by the FERC on the four-year authorization extension to 1992. In addition, the applicant requests extension of the authorization to October 31, 2001, to correspond to the term of its purchase contract with Pan-Alberta. Alternatively, Northwest Alaskan requests the ERA to extend the authorization through October 31, 1996, to correspond to the export authorizaiton currently being sought by Pan-Alberta from the NEB. The contract specifies that approval of these provisions, including the time extension, by all regulatory agencies would prevent the immediate increase in transportation charges to cover accelerated depreciation of the Foothills pipeline that would otherwise occur.

Northwest Alaskan requests that the amendments be approved effective November 1, 1984. According to the contract, all final, non-appealable governmental approvals must be obtained by February 15, 1985, or either party may terminate the contract and the Foothills' accelerated depreciation would begin.

II. Interventions and Procedural Motions

On October 23, 1984, the ERA issued a notice of Northwest Alaskan's application, inviting protests or motions to intervene, which were to be filed by November 26, 1984.[6]

The ERA received 13 timely motions to interven and one notice of intervention. It received one late notice of intervention from the Railroad Commission of Texas which was filed on November 28, 1984, and one late motion to intervene from the State of New Mexico on December 11, 1984. There was no opposition to any of the motions for intervention. Further, with regard to the late notice and motion of intervention, no delay to the proceeding or prejudice to any party will result from the interventions being granted. Accordingly, the late filings are accepted and this order grants all motions and notices to intervene.[7]

El Paso Natural Gas Company's (El Paso) motion to intervene requests that the ERA reject Northwest Alaskan's proposal as noncompetitive. Alternatively, El Paso requests that there be a trial-type hearing to determine the effects that Northwest Alaskan's proposed import arrangement will have on natural gas consumers and suppliers of domestic natural gas consumed in California. El Paso argues that Northwest Alaskan should be

[4] *Northwest Alaskan Pipeline Company*, Docket Nos. CP78–123–021, *et al.*, 25 FERC ¶61,384.

[5] Northwest Alaskan and Pan-Alberta renegotiated a temporary take-and-pay reduction to 40 percent during contract year 1983–84 which expired on November 1, 1984.

[6] 49 FR 43091, October 26, 1984.

[7] Intervenors are: El Paso Natural Gas Company, ARCO Oil and Gas Company, the Independent Petroleum Association of New Mexico, U.S. Representative Bill Richardson (New Mexico), Public Utilities Commission of the State of California, Rault Resources, Inc., Pacific Lighting Gas Supply Company with Southern California Gas Company, Pacific Interstate Transmission Company, Transwestern Pipeline Company, EOC Company (Southwest Gas Corporation, Arizona Pacific Service Company, Gas Company of New Mexico, and Southern Union Gas Company, Panhandle Eastern Pipe Line Company, Foothills Pipe Lines (Yukon) Ltd., Pan-Alberta Gas Ltd., Apache Corporation, the Railroad Commission of Texas, and the State of New Mexico.

required to renegotiate the contract to establish more competitive terms. El Paso states that it would not object to a contract provision designed to ensure that the minimum revenue requirements of the ANGTS prebuild are met, which El Paso estimates to be a take-and-pay level of about 50 percent at the Canadian border rather than the 60 percent contained in the contract.

El Paso's objection hinges on the differences in computation of demand and commodity costs by Pan-Alberta and by El Paso. According to El Paso, the Pan-Alberta demand charge, reflected in PIT's rates, contains all of the fixed costs of gathering, processing and transporting Pan-Alberta gas from the wellhead in Canada to the Canadian border, as well as at least some of the fuel and product losses incurred in Canada. El Paso contends that its demand charge, by contrast, reflects only 35.6 percent of its fixed costs; the remaining 64.4 percent of its fixed costs (including all of the costs associated with El Paso's gathering and processing facilities and all return on equity investment and related taxes) as well as all of its variable costs are assigned to El Paso's commodity charge.

According to El Paso, the result is an estimated annual demand charge at the California border at full contract entitlement for Pan-Alberta gas of $2.11 per Mcf for SoCal, the ultimate buyer. This, according to El Paso, compares to its own annual demand charge at full contract entitlement of only $0.14 per Mcf. El Paso asserts that, on the other hand, the commodity charge for Pan-Alberta's gas to SoCal at 100 percent load factor would an average of $2.82 per dekatherm, while El Paso's commodity charge at 100 percent would be around $3.45 per dekatherm. If its rates were designed as those of PIT, El Paso asserts that its commodity rate would be in the neighborhood of $2.73 per dekatherm, somewhat less than PIT's. Because of the different calculation of the demand and commodity charges, El Paso is concerned that it may lose sales to SoCal.

The EOC Companies (Southwest Gas Corporation, Arizona Pacific Service Company, Gas Company of New Mexico, and Southern Union Gas Company) also express concern about any such loss of sales by El Paso and the potential adverse effect it would have on their billings from El Paso and request a trial-type hearing.

The concern about loss of sales arises from an ongoing "sequential purchasing" study of "avoidable costs" by the Public Utilities Commission of the State of California (CPUC) to determine the quantities of gas which should be taken from each supplier to keep overall costs to California consumers as low as possible. One of the alternatives in this study is a proposal by SoCal that only the commodity rate be considered when purchasing gas because a distributor is obligated to pay the demand rate regardless of the amount of gas purchased from a supplier. If commodity rates only were compared, PIT would have a competitive advantage because its commodity rate is lower than El Paso's despite the fact that its total average price is higher. El Paso alleges that SoCal testimony at CPUC hearings on the purchase sequence proposals indicates that this type of incremental pricing is "a fundamental (albeit unstated) condition of the New Pan-Alberta contract" and that without it the contract might well be voided in Canada.

With regard to the 60 percent take-and-pay provision, El Paso states it is not unmindful of the special status which is accorded to the ANGTS prebuilt project in U.S.-Canadian energy relations, and would accept a provision which required a minimum level of throughput to guarantee the prebuilt project sponsors the recovery of their investment plus a reasonable return. El Paso admits that it does not know what level that might be, but contends that a 50 percent throughput at the Canadian border would approximate the revenues which Canada would receive for an equivalent volume of Pan-Alberta gas priced in accordance with the Canadian Volume Related Incentive Pricing (VRIP) program. In El Paso's view, the burden should be placed on the prebuild project proponents to justify any take-and-pay or other minimum throughput condition which requires takes in excess of 50 percent of the total contract volume as measured at the Canadian border.

In calling for a trial-type hearing, El Paso also questions the savings to California consumers represented by the renegotiated contract. The basis for the savings, according to SoCal testimony in a CPUC rate case as reported by El Paso, is the return to an 85 percent level from the 40 percent level that temporarily prevailed. El Paso points instead to Pan-Alberta testimony on enhanced economic benefits to Canada before the NEB on the renegotiated contract that was based on a continued 40 percent take-and-pay requirement. This indicates to El Paso that the supplier did not contemplate a return to an 85 percent level.

Finally, El Paso urges the ERA to reject the renegotiated contract as not in the public interest, without prejudice to the contracting parties reaching agreement among themselves and submitting for approval new import contract terms which "will permit a fair, 'apples and apples,' comparison between the costs of Pan-Alberta gas, on the one hand, and the cost of available domestic supplies on the other."

The motion to intervene filed by the ARCO Oil and Gas Company (ARCO), a division of Atlantic Richfield Company, states its opposition to Northwest Alaskan's application and expresses support for El Paso's request that the ERA hold a trial-type hearing on the Northwest Alaskan application.

As a producer of natural gas, a substantial portion of which is sold to El Paso and to Transwestern Pipeline Company (Transwestern) which also sells to SoCal, ARCO states that El Paso and Transwestern have reduced purchases from ARCO because their California customers, including SoCal, have reduced purchases of domestic gas in order to take minimum contract quantities of gas inported from Canada. ARCO indicates that the average cost of gas delivered by PIT to SoCal, which it understands to range from about $4.90 to $6.09 MMBtu, depending on the load factor, is substantially higher than the delivered cost of domestic gas sold by El Paso to SoCal at about $3.60 to $3.70 per MMBtu. ARCO contends that, under purchase proposals made by SoCal to the CPUC, imported gas may continue to be taken by SoCal at higher load factors than domestic gas, despite the higher cost.

For these reasons, ARCO believes that Northwest Alaskan's proposed import arrangements may be inconsistent with import policy which ARCO asserts requires that imported gas be market-competitive with domestic gas. In addition, ARCO believes favoring more expensive imported supplies over less expensive domestic supplies is "patently contrary to the public interest."

The Independent Petroleum Association of New Mexico (IPANM), U.S. Representative Bill Richardson (New Mexico), the Apache Corporation (Apache), the Railroad Commission of Texas, Rault Resources, Inc. (Rault), and the State of New Mexico each noticed or moved to intervene in opposition to Northwest Alaskan's application and, except for the State of New Mexico, each requested a trial-type hearing. Each of these nearly identical interventions echoes the concern of ARCO that, as a result of approval of this application, El Paso and Transwestern will buy less gas from domestic producers than they are able

to furnish. In most cases they contend that El Paso or Transwestern are the only markets for their gas.

On the other hand, the CPUC's notice of intervention supports Northwest Alaskan's application as do the motions to intervene of Panhandle Eastern Pipe Line Company, Pan-Alberta Gas Ltd., and Foothills Pipe Lines (Yukon) Ltd. The CPUC supports the renegotiated arrangement as providing for a long-term source of gas for the California market which is secure in terms of dedicated reserves and is "price controlled" so as to be responsive to market conditions in Southern California. The CPUC asserts that the new provisions will result in the per-unit cost of Alberta gas at 85 percent load factor dropping from approximately $4.00 to about $3.00 per MMBtu at the U.S. border.

The CPUC recognizes that the substantial fixed costs associated with the Western Leg of the ANGTS have and will continue to make Alberta gas relatively expensive for California consumers. The CPUC states, however, that the price reductions and controls available through these renegotiated arrangements are substantial improvements over the existing import arrangements.

The CPUC contends that Northwest Alaskan's proposed arrangement is in compliance with the U.S. Secretary of Energy's policy guidelines and should be implemented as soon as possible. The CPUC states that under the current gas sequencing policy practiced in California, the gas imported under this proposal will be price competitive. The CPUC maintains that the price indexing provisions ensure that the arrangement will remain competitive. Finally, the CPUC states that it supports the extension of the authorization sought by Northwest Alaskan in order that the long-term benefits of this agreement may be obtained by Southern California gas consumers. The other intervenors in support of the agreement generally advance the same views.

III. Response to the Comments and Motions

El Paso's first concern is that Northwest Alaskan's, and hence PIT's, demand-commodity pricing structure is discriminatory. El Paso is concerned that the demand charge contains fixed costs which in El Paso's case are assigned to the commodity charge.

The allocation of costs between the demand and commodity components in Northwest Alaskan's tariff is being addressed in an ongoing rate proceeding before the FERC in which El Paso is participating.[8] The FERC rate proceeding is the appropriate forum before which to address and resolve this issue. Furthermore, if El Paso wishes to have its own demand-commodity rate structure revised to minimize alleged marketing inequities relating to Northwest Alaskan's tariff, the FERC is the appropriate regulatory forum for this issue as well.

El Paso also has expressed concern that the sequencing policies based on commodity charges being considered by the CPUC, if adopted, will have the unfair result for greater takes of Canadian gas which has a higher average cost although a lower commodity rate than El Paso's gas. The issue of sequencing of takes in California is also a matter outside the ERA's jurisdiction. The appropriate forum for El Paso to address this issue is before the CPUC in its present proceeding.[9] The CPUC is in the best position to make decisions in the interest of the California consumer on this matter and has indicated in its notice of intervention that it is aware of the cost of Canadian gas in relation to other available supplies.

The other issue raised by EL Paso is that Northwest Alaskan's arrangement provides for the establishment of a 60 percent take-and-pay level rather than the 50 percent level suggested by El Paso. While El Paso believes the proposed level is higher than necessary to recover fixed costs of the ANGTS prebuild, this was a matter negotiated between the buyer and seller and may be related to a number of other factors or trade-offs beyond fixed costs recovery. The 60 percent minimum certainly represents an improvement over the prior take-and-pay level of 85 percent. Although EL Paso may doubt that the 85 percent take-and-pay would actually have been required without the renegotiated contract, it is highly conjectural as to how that rate might otherwise have been modified.

Both of El Paso's motions are denied. The request for hearing is denied on the grounds that El Paso failed to demonstrate that there is a relevant and material factual issue genuinely in dispute and that a trial-type hearing is necessary for a full and true disclosure of the facts.[10] All the requests by other intervenors for a trial-type hearing are denied on the same grounds. Northwest Alaskan agrees with El Paso that the average delivered price of the Canadian gas to SoCal is higher than the delivered price of gas supplied by other pipelines. There is no apparent disagreement on the cost of the gas at the California border. There also is no dispute of fact concerning the other provisions of the contract such as the existence of the two-part tariff or the 60 percent take-and-pay provision. The disagreement that does exist pertains to the appropriateness of the provisions and their possible effect, and to application of policy to those facts, which are matters of judgement, not fact. Furthermore, most of the concerns raised are matters either beyond the ERA's jurisdiction or more appropriately the jurisdiction of other regulatory authorities. The El Paso motion that this agency summarily reject the arrangement as non-competitive based on issues more appropriately within the jurisdiction of other agencies is also denied for these reasons.

The issues raised by ARCO, IPANM, U.S. Representative Bill Richardson, Apache, Rault, the Railroad Commission of Texas, and the State of New Mexico concern the possibility that domestic gas produced in the Southwest will be displaced and shut-in if Northwest Alaskan's proposed arrangement is approved. The concerns raised by ARCO and others that SoCal may purchase higher priced Canadian gas rather than lower priced gas from El Paso and Transwestern as a result of Northwest Alaskan's demand-commodity rate structure and of the CPUC's proposed gas sequencing policies have been addressed in part above in the discussion of El Paso's very similar concerns.

The issue raised by the domestic producers and their representatives reflect legitimate concerns that their ability to market their gas may be impaired by this arrangement. Yet rejection of Northwest Alaskan's proposal does not appear to solve the problems faced by these producers. None of the intervenors identify the price of gas not taken by El Paso or Transwestern. However, Rault stated that "many wells are shut in. Many were drilled with high-cost dollars and cannot now find low-priced markets—(much less the 'Section 107' tight gas prices that were 'promised' and 'lured' them into being)." This indicates that takes from domestic producers may be influenced by the price they charge as much as by factors relating to this Canadian gas import. The fact that takes of Canadian

[8] *Northwest Alaskan Pipeline Company*, Docket No. RP85-5-000.

[9] *Southern California Gas Company and Pacific Lighting Gas Supply Company*, Application 84-09-22 (September 10, 1984).

[10] 10 CFR 590.313.

gas dropped as well during contract years 1983–84 and 1984–85 indicates that El Paso reduction in takes from its domestic producers was not solely due to Northwest Alaskan's imports, but was also the result of market forces. The reduction of Northwest-Alaskan's take-and-pay obligations from 85 to 60 percent under this arrangement presents an opportunity for El Paso to sell additional supplies of gas to SoCal.

Furthermore, SoCal indicates in its answer to El Paso that the producers' concerns may be exaggerated. SoCal contends it expects to take more than the amount El Paso has presently dedicated to the Southern California market. In addition, numbers supplied by El Paso indicate that the PIT contract volumes represent less than 10 percent of SoCal's total supply. Hence the significance of the Canadian supply is limited with respect to El Paso and its producers.

We note that the CPUC has endorsed this application on the grounds that the arrangement is competitive, and cites the future need for the Canadian gas in California. In contrast, not a single intervenor claimed that there is no need for this Canadian gas. These contract amendments, by reducing the Canadian take-and-pay requirement as well as reducing the price of the supply and providing for price adjustments to respond to market changes, give greater flexibility to the State of California and to SoCal in determining which gas purchases are most equitable and economical to California consumers. The concerns expressed by producers about current sales to El Paso and Transwestern are contractual matters better resolved by commercial parties, or alternatively are the jurisdiction of other regulatory authorities, in this case the FERC and the CPUC.

IV. ANGTA Jurisdiction

On February 15, 1984, the Secretary of Energy, in Delegation Order 0204–111, delegated to the ERA Administrator authority under Section 3 of the Natural Gas Act to regulate the importation of natural gas in connection with the construction and operation of the ANGTS. This jurisdiction had previously been delegated to the FERC.

The FERC has determined in a series of orders,[11] including the previously cited 1980 authorizations of this import and the subsequent December 15, 1983, conditional extension, that the importation of natural gas for transportation through the pre-built facilities of the ANGTS is related to the construction and initial operation of the ANGTS within the meaning of Section 9 of the ANGTA.[12] In so finding, the FERC reasoned that:

> Inasmuch as the Northern Border and Western Leg segments of the ANGTS orignate at the Canadian border, any decision affecting the volumes of gas transported through the 'prebuilt' segments of the ANGTS, or the price paid by consumers of such gas (and thereby, its marketability), could have an impact on the financial viability of those segments, which in turn could have an impact on the willingness of lenders and investors to finance the Alaskan segment. Thus, even though the 'prebuilt' sections have now been constructed and have gone into operation, imports of additional volumes of Canadian gas through those segments are clearly related to the financial viability of the Alaskan segment and of the ANGTS itself as a coherent system to transport gas from the North Slope of Alaska to the lower-48 states.[13]

This reasoning applies with equal validity to Northwest Alaskan's present request. Northwest Alaskan's application is related to the construction and initial operation of ANGTS within the meaning of Section 9 of ANGTA. Purusant to Section 9 of ANGTA, Northwest Alaskan's application was reviewed expeditiously and this final decision on the application took precedence over similar import applications.

V. Decision

Northwest Alaskan's application has been evaluated to determine if the arrangement meets the public interest requirement of Section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there is a finding that it will not be consistent with the public interest. In making this decision, the Administrator is guided by the policy relating to the regulation of natural gas imports issued by the Secretary of Energy on February 15, 1984.[14]

The Secretary's policy sets forth several considerations that guide this decision. The considerations include competitiveness of the supply in the markets served, the need for the gas, and the security or reliability of the supply. Another factor which strongly influences this decision, and which is explicity recognized in the Secretary's policy, is the special circumstance underlying the transportation system delivering this gas to market—the prebuilt portions of the ANGTS. The policy guidelines recognize that there "may be unique situations involving extensions or modifications of existing gas import arrangements, such as the prebuilt portions of the Alaska Natural Gas Transportation System, that merit special consideration." This import arrangement is just such a case. The assessment of this application therefore took into account the uniqueness of the prebuild as part of the ANGTS, and the commitments of the Canadian and U.S. Governments to the ANGTS.

Competitiveness does not focus on a specific price, but ratherr is a funciton of all the terms of a contract and their interrelationship. No party disagrees that this imported gas, on average, is a high-cost supply, coming as it does through the ANGTS prebuild. However, this arrangement, including the pricing aspects, is a very substantial improvement over the previous contract, with significant cost and competitive benefits to Southern California gas consumers.

The renegotiated gas sales contract between Northwest Alaskan and Pan-Alberta provides for a substatially more flexible and market-sensitive import arrangement than currently exists. The contract amendment contains reduced purchase obligations, a flexibile pricing structure, frequent opportunities for renegotiation, and volume-related price incentives. These specific features of the contract should assure the purchaser of a market-responsive supply of natural gas over the term of the contract. The new arrangement has been buyer-seller negotiated and is endorsed as competitive by the State of California through its Public Utilities Commission. The market being served has declared that the gas is competitive. Thus, it is determined that the renegotiated arrangement is much more competitive than the previous arrangement.

Northwest Alaskan asserted in its application that supply deficiencies are anticipated in PIT's market area in the late 1980's and that the gas will be marketable throughout the life of the contract. The CPUC has stated that the gas is needed. The issue of need for

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[11] See, e.g., the orders issued on January 11, 1980 (10 FERC ¶ 61,032 at pp. 61,079 and 61,087), April 28, 1980 (11 FERC ¶ 61,088 at pp. 61,138 and 61,191), October 1, 1981 (17 FERC ¶ 61,001 at pp. 61,002 and 61,004) and August 18, 1982 (20 FERC ¶ 61,197 at pp. 61,382 and 61,385). See also *Midwestern Gas Transmission Co. v. F.E.R.C.*, 589 F.2d 603, 614–616 (D.C. Cir. 1978); *Iowa State Commerce Commission v. Federal Inspector*, 730 F.2d 1566, 1571 (D.C. Cir. 1984).

[12] 15 U.S.C. 719g. Section 9 of ANGTA provides for expeditious review of any "* * * action which is necessary or related to the construction and initial operation of the approved transportation system [ANGTS] * * *" and "any such application or request shall take precedencee over any similar application. . ."

[13] *Northwest Alaskan Pipeline Company*, Docket Nos. CP78–123–020 and CP78–123–021, 25 FERC ¶ 61,384 at p. 61,843 (December 15, 1983).

[14] 49 FR 6684, February 22, 1984.

these volumes of gas imported by Northwest Alaskan has not been contested by any party to this proceeding. Thus, the agency finds that there is need for this import.

Natural gas from Canada has been imported into a wide range of domestic markets for many years and Canada has demonstrated its reliability as a supplier. The issue of security of reliability of supply has been uncontested in this proceeding. Because there is no reason to question whether Canadian gas suppliers will maintain their historical reliability or whether there are adequate reserves supporting this arrangement, the ERA concludes that reliability of supply is assured for the term of the import arrangement.

Finally, a very important consideration in this proceeding is the unique character of the ANGTS and the relationship of the prebuild to the ANGTS. The commitment to the project is evidenced by agreements between the U.S. and the Canadian Governments, legislation by the U.S. Congress, and formal support given to the project by two Presidents, as well as prior regulatory decisions by agencies of the U.S. Government. Recent actions by the Canadian Government and the FERC continue to recognize this commitment. In announcing the approval of the renegotiated contract between Northwest Alaskan and Pan-Alberta on November 2, 1984, the Canadian NEB exempted this import arrangement from compliance with its export policy guidelines by allowing an average export price below the Toronto wholesale price. On July 30, 1984, in Order No. 380A,[15] the FERC stated that Order No. 380 [16] does not apply to Northwest Alaskan's sales tariffs, and further on October 24, 1984, in Order No. 380C,[17] the FERC reiterated that Order No. 380 does not apply to the minimum take provisions of Northwest Alaskan's tariffs.

Northwest Alaskan requests an extension of its current import authority for a term commensurate with the term of its gas sales contract with Pan-Alberta through October 31, 2001, or alternatively, through October 31,1996, consistent with the extended export authorization requested by Pan-Alberta from the Canadian NEB. Extension of the contract period also allows modification of financing agreements for the Foothills' portion of the Canadian transportation system that will prevent an increase in the demand charge that would otherwise occur. Presently, depreciation of the Foothills' segment must be concluded over the last four years of authorized importation of natural gas. This would begin in the 1984–85 contract year and would more than double the Canadian demand charge.

Northwest Alaskan asserts that PIT and its customers

> * * * have borne the early initial costs of transportation of Canadian imports through the Western Leg of the prebuilt ANGTS system, and should therefore also receive the benefits that will accrue to them from the proposed export extension—an additional secure and dependable supply of Canadian gas through this system with the attendant lower transportation charges resulting from declining depreciation and related expenses.

The CPUC supports the extension so that California customers will receive these benefits. The ERA agrees that an extension of the import authority through October 31, 2001, will provide additional opportunities for cost of service reductions on the Western Leg delivery system. Further, approval of the full term requested is consistent with the U.S. Government's commitment to the ANGTS.

Mindful of these commitments and considerations, and with the awareness that approval of the present application would enhance the competitiveness of the gas flowing through the prebuild and the future viability of the prebuild, the concerns raised by the parties are not compelling. Under this amended arrangement, the price of gas sold by Canada to consumers in California is substantially less than in the previous arrangement. The volumes of Canadian gas required to be taken are also substantially less. Further, the new arrangement allows an extended period for depreciation of the Canadian segment of the prebuild and offers the opportunity to owners and operators of the U.S. segment of the Western Leg to seek adjustments that would reduce fixed costs. Finally, the arrangement provides considerable increased flexibility to adjust price and other terms in response to market changes and is endorsed as competitive in the California market by the CPUC, the agency charged with overseeing and responding to the interests of California in these matters.

After taking into consideration all information in the record of this proceeding, I find that Northwest Alaskan's import arrangement supports the U.S. commitment to the ANGTS and the prebuild, and will result in a more competitive and market-sensitive price for Canadian natural gas supplies to SoCal.[18] Consequently, approval of Northwest Alaskan's application is not inconsistent with the public interest and should be granted.

Order

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act, it is ordered that:

A. The import authorization previously issued by the Federal Energy Regulatory Commission to Northwest Alaskan Pipeline Company (Northwest Alaskan) under Docket Nos. CP78–123, *et al.*, on January 11, 1980 (10 FERC ¶ 61,032), and Docket Nos. CP78–123, *et al.*, on June 13, 1980 (11 FERC ¶ 61,279), as amended in Docket Nos. CP78–123–021, *et al.*, on December 15, 1983 (25 FERC ¶ 61,384), is hereby further amended to remove the conditions imposed on Northwest Alaskan's current authorization and thereby extend the term of its authorization from October 31, 1988, to October 31, 1992, and to extend further the term of its authorization from October 31, 1992, to October 31, 2001, in accordance with the pricing and other provisions established in the contract submitted as part of its application.

B. The effective date of this order is November 1, 1984.

C. With respect to the natural gas authorized to be imported by this order, Northwest Alaskan shall file with the ERA in the month following each calendar quarter, quarterly reports showing, by month, the quantities of imported gas resold to Pacific Interstate Transmission Company, Inc. (PIT), and the average price, on an MMBtu basis, paid by PIT for both the demand and commodity components.

D. The motions and notices of intervention, as set forth in this Opinion and Order, are hereby granted, subject to such rules of practice and procedures as may be in effect, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their motions and notices of intervention and not herein specifically

[15] FERC Statutes and Regulations, ¶ 30,584.

[16] FERC Statutes and Regulations, ¶ 30,571. Order 380 amended the FERC's regulations by eliminating from natural gas pipeline tariffs any minimum commodity provisions that operate to recover variable costs. The objectives of that order were to increase incentives to buy lower cost gas, increase competition among pipeline supplies, and encourage contract renegotiation.

[17] FERC Statutes and Regulations, ¶ 30,607.

[18] Because the proposed inportation of gas will use existing pipeline facilities, DOE has determined that granting this application is not a Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act (42 U.S.C. 43212, *et seg.*) and therefore an environmental impact statement or environmental assessment is not required.

denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on December 13, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 84-33280 Filed 12-20-84; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-84-026 (OFP Case No. 65038-9261-20-24)]

Acceptance of Petition for Exemption and Availability of Certification by OLS Energy-Chino

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice.

SUMMARY: On November 26, 1984, OLS Energy-Chino (OLS) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant to be located at the California Correctional Institute for Men (CIM), Chino, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of PUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed powerplant for which the petition was filed is an approximately 26.4 MW (net) combined cycle cogeneration facility consisting of: (1) A gas turbine generator, (2) a waste heat recovery steam generator, and (3) a steam extraction turbine generator. The plant will burn natural gas primarily, with a distillate grade fuel as a back-up. It is expected that over 90 percent of the net annual electric power produced by the cogenerator will be sold to Southern California Edison (SCE), making the the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will produce approximately 14,200 lbs. of steam per hour which will supply CIM's heating and process steam needs. OLS will operate the facility.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before February 4, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. EFA-FC-84-026 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

George Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-073L, Washington, D.C. 20585, Phone (202) 252-1774

Steven Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6947

SUPPLEMENTARY INFORMATION: OLS proposes to install a cogeneration system at CIM, Chino, California, which will: (1) Generate electrical power for sale to SCE, and (2) produce steam to meet the Institution's heating and process steam requirements. The proposed cogeneration system will be operated by OLS. The system will consist of a gas turbine generator whic will produce electric power, a waste heat recovery system, and an extraction steam turbine which will produce steam and additional electric power.

The cogaeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR § 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), OLS has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR § 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), OLS has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an ESI in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that OLS is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on December 14, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-33285 Filed 12-20-84; 8:45 am]

BILLING CODE 6450-01-M

[(OFC Case No. 65036-9252-21-22) Docket No. ERA-FC-84-017]

Order Granting Northern California Power Agency, Lodi Peaking Facility, Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice.

SUMMARY: On July 30, 1984, the Northern California Power Agency, Lodi Peaking Facility (NCPA Lodi) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which: (1) Prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

NCPA Lodi requested a permanent peakload exemption under 10 CFR 503.41 for a simple-cycle combustion turbine installation consisting of one 25.8 MW combustion turbine-generator system and appurtenant equipment with a maximum heat input rate of 323 million Btu per hour. The proposed unit is to be installed at the NCPA Lodi facility in Lodi, California. The powerplant will be capable of burning natural gas and petroleum.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to NCPA Lodi a permanent peakload powerplant exemption from the prohibitions of FUA for the proposed combustion turbine generator at the facility in Lodi, California.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on February 19, 1985.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-073L, Washington, D.C. 20585, Phone (202) 252-6002

Steven E. Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6947

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available for inspection upon request at the Department of Energy, Freedom of Information Readng Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday; 8:00 a.m.-4:00 p.m.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. NCPA Lodi had filed a petition for a permanent peakload powerplant exemption to use petroleum or natural gas as a primary energy source in its proposed Lodi, California facility's simple-cycle combustion turbine installation.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this unit, in the **Federal Register** on September 10, 1984 (49 FR 35551), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of NCPA Lodi's petition to the Environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed October 25, 1984. No comments were received and no hearing was requested.

NCPA Lodi certified in its Petition for Exemption that the proposed unit will be operated solely as a peakload powerplant. To be included within the basic definition of "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12 calendar month period, such powerplant's design capacity multiplied by 1500 hours."

NCPA Lodi certified that the net design of the powerplant is 24.7 megawatts and that the maximum generation that will be allowed during any 12-month period for the combustion turbine is the design capacity times 1,500 hours or 37,125 megawatt-hours, constituting a "peakload powerplant" operation within the definition.

NCPA Lodi has also certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

As ERA detemined that no alternate fuels are presently available for use in the proposed unit, ERA has waived the requirement of 10 CFR 503.41(a)(2)(ii) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplant of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is, or would be, exceeded.

Decision and Order

Accordingly, based upon the entire record of this proceeding, ERA has determined that NCPA Lodi has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants NCPA Lodi a permanent exemption for a peakload powerplant to be installed at its facility in Lodi, California, permitting the use of natural gas or petroleum as a primary energy source in the unit.

After review by ERA's Office of Fuels Programs, Coal and Electricity Division, of NCPA Lodi's completed environmental checklist submitted pursuant to 10 CFR 503.13, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2(C) of the National Environmental Policy Act.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C., on December 12, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-33284 Filed 12-20-84; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-84-025 (OFP Case No. 61048-9260-20-24)]

Acceptance of Petition for Exemption and Availability of Certification by Calcogen, Inc.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice.

SUMMARY: On November 26, 1984, Calcogen, Inc. (Calcogen) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant to be located at the California Polytechnic State University (Cal Poly), San Luis Obispo, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed powerplant for which the petition was filed is an approximately 27 MW (net) combined cycle cogeneration facility consisting of: (1) A gas turbine generator, (2) a waste heat recovery steam generator, and (3) a steam extraction turbine generator. The plant will burn only natural gas. It is expected that virtually all of the net annual electric power produced by the cogenerator will be sold to Pacific Gas & Electric Company (PG&E), making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will produce approximately 17,000 lbs. of steam per hour which will supply Cal Poly's needs. Calcogen will operate the facility.

ERA had determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federl holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before February 4, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence avenue, SW., Washington, D.C. 20585.

Docket No. ERA-FC-84-025 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

George Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-073L, Washington, D.C. 20585, Phone (202) 252-1774

Steven Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6947

SUPPLEMENTARY INFORMATION: Calcogen proposes to install a cogeneration system at Cal Poly, San Luis Obispo, California, which will: (1) Generate electrical power for sale to PG&E, and (2) produce steam to meet the University's heating and cooling requirements. The proposed cogeneration system will be operated by Calcogen. The system will consist of a gas turbine generator which will produce electric power, a waste heat recovery system, and an extraction steam turbine which will produce steam and additional electric power for sale to PG&E.

The cogeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR § 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), Calcogen has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), Calcogen has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be

taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Calcogen is entitled to the exemption requested. That determination will be based on the entire record of this processing, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on December 14, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-33283 Filed 12-20-84; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-11-NG]

Northern Natural Gas Company, Division of Internorth Inc.; Application To Amend Existing Authorization To Import Natural Gas From Canada

AGENCY: Ecomonic Regulatory Administration, Department of Energy.

ACTION: Notice of Supplement to Application to Amend Current Natural Gas Import Authorization and to Extend the Term of the Authorization.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of receipt on December 10, 1984, of a supplement to the pending application of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), in ERA Docket No. 82-11-NG, to extend the term of its existing import authorization by two years from October 31, 1987, to October 31, 1989, and increase the import volumes above presently authorized levels. This supplement reflects certain amendments in the gas purchase contract between Northern and its Canadian supplier, Consolidated Natural gas Limited (Consolidated), which the applicant asserts make it more flexible and more competitive.

The supplement to the applilcation is filed with ERA pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order No. 0204-111. Protest, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m. on January 12, 1985.

FOR FURTHER INFORMATION CONTACT:

Olga Ronkovich (Natural Gas Division), Office of Fuels Programs, Economic Regulatory administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION:

I. Initial Application

Pursuant to a contract amendment between Northern and Consolidated of May 13, 1982, Northern filed an application with the ERA on August 9, 1982, proposing to extend the term of its original import authorization issued August 29, 1980 (in Opinion and Order No. 19, ERA Docket No. 79-24-NG), an additional two years through October 31, 1989. Simultaneously with filing at the ERA, Northern filed with the Federal Energy Regulatory Commission (FERC) in Docket No. CP80-22-003 a petition to amend a related authorization issued July 27, 1980, in FERC Docket No. CP80-22. Northern requested the ERA to authorize the following increases in volumes at Emerson, Manitoba, and requested the FERC to authorize the following volumes increases at Monchy, Saskatchewan, through the Alaska Natural Gas Transportation System (ANGTS).

Contract year	Original authorized volumes (MMcf/d)	Additional volumes requested (MMcf/d)	Total DCQ (MMcf/d)
At Emerson:			
Nov. 1, 1984 to Oct. 31, 1985	75	25	100
Nov. 1, 1985 to Oct. 31, 1986	50	30	80
Nov. 1, 1986 to Oct. 31, 1987	25	42.5	67.5
Nov. 1, 1987 to Oct. 31, 1988	0	67.5	67.5
Nov. 1, 1988 to Oct. 31, 1989	0	67.5	67.5
At Monchy:			
Nov. 1, 1984 to Oct. 31, 1985	75	25	100
Nov. 1, 1985 to Oct. 31, 1986	50	30	80
Nov. 1, 1986 to Oct. 31, 1987	25	42.5	67.5
Nov. 1, 1987 to Oct. 31, 1988	0	67.5	67.5
Nov. 1, 1988 to Oct. 31, 1989	0	67.5	67.5

Northern stated that the total additional volume of gas it would import through both import points is 98.55 Bcf at the international border price as set from time to time by the National Energy Board of Canada which was then $4.94 (U.S.) per MMBtu.

On February 15, 1984, in Delegation Order No. 0204-111, the Secretary of Energy transferred from the FERC to the ERA the responsibility under Section 3 of the NGA to approve the importation of natural gas to be transported through the ANGTS (49 FR 6690, February 22, 1984). As a result, on April 3, 1984, the ERA consolidated Northern's application that had ben pending at the FERC in Docket No. CP80-22-003 into ERA Docket No. 82-11-NG (1 ERA ¶ 70,562, *Federal Energy Guidelines*).

On April 16, 1984, Northern filed a supplement to its application in this docket requesting ERA to defer action on its proposal while it renegotiated its natural gas purchase contract with Consolidated.

II. Second Supplement to Application

On December 10, 1984, Northern filed a second supplement to its pending application. That supplement requests authorization of amendments to its gas purchase contract with Consolidated which were agreed to November 1, 1984. Northern asserts that the amendments make the contract more flexible and competitive, and therefore consistent with the Secretary of Energy's gas import policy issued February 15, 1984 (49 FR 6686, February 22, 1984). Under the amended contract, commencing with approval of the appropriate regulatory bodies, the purchase price during the 1984-85 contract year will be $3.50 (U.S.) per MMBtu for all imported volumes up to 27.375 Bcf. For volumes taken above that level, to a minimum of 12.775 Bcf, and up to the annual volumes authorized, the price will be $2.70 (U.S.) per MMBtu for the 1984-85 contract year. In future years, the price of the gas is to be renegotiated annually.

The amended contract provides that Northern will take and pay for a minimum of 40.15 Bcf during the 1984-85 contract year. Future take-and-pay volumes will be subject to annual renegotiation. The contract also specifies that not less than 50 percent of the volumes imported during the 1984-85 contract year shall be delivered at Emerson, Manitoba.

The annual renegotiation of price and volume obligations will be based on the objective of achieving levels which would be expected to enable Northern to resell such volumes in its markets and to provide Consolidated with a fair price and reasonable level of sales. Failing an agreement on price and volume obligations by September 15 of a particular year, the matter is to be submitted to arbitration.

Northern contends that the renegotiated provisions are consistent

with the policy guidelines. Northern asserts that the terms and conditions, taken together, provide for a supply of natural gas which can be marketed competitively over the term of the contract. The contract is flexible to permit pricing and volume adjustments as required by market conditions and available competing fuels.

Northern requests that the supplemental amendment be granted effective November 1, 1984, and that the ERA take expedited action on this authorization. Northern states that it will be restricted to taking 150,000 Mcf per day until the ERA acts, while the increased volumes are needed in Northern's temperature-sensitive markets.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should address in their comments the issue of competitiveness as set forth in the policy guidelines.

Other Information

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a motion or notice to intervene, as appropriate. Persons who have already petitioned for intervention in ERA Docket No. 82–11–NG need not file new motions, but if any party wants further proceedings, even if a previous request was filed, the request for the particular procedure should be filed in response to this notice, together with a discussion of how the procedure will illuminate the issues and advance the proceeding. Persons who have already moved to intervene also should update their filings to indicate whether the issues raised at the time of filing are still germane to the renegotiated contract and the supplemented application. All petitions for intervention filed in this docket up to this time inconnection with the original application shall be considered timely submissions.

Any person may file a protest with respect to this amended application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–033–B, RG–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., January 12, 1985. A 20-day comment period has been provided to allow sufficient time to evaluate the application and any responses to this notice and to meet insofar as possible Northern's request for expedited action on this application since Northern will be able to take only limited volumes until the ERA has acted.

A decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties and persons whose motions to intervene are pending. If no party files a motion requesting additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northern Natural Gas Company's application is available for inspection and copying in the Natural Gas Division Docket Room GA–033–B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on December 18, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84–33300 Filed –12–20–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 3307–004, et al.]

Hydroelectric Applications (Hydro Corporation of Pennsylvania, et al.); Applications Filed With the Commission

Take notice that the following hydroelectic applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Transfer of License.

b. Project No.: 3307–004.

c. Date Filed: November 1, 1984.

d. Applicant: Hydro Corporation of Pennsylvania (Licensee) and Tionesta Associates (Transferee).

e. Name of Project: Tionesta Lake.

f. Location: Tionesta Creek, Forest County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Garry B. Watzke, Esq., National Hydro Corporation, 77 Franklin Street, 9th Fl., Boston, Massachusetts 02110.

i. Comment Date: January 25, 1985.

j. Description of Transfer:

On November 1, 1984, Hydro Corporation of Pennsylvania (Licensee), and Tionesta Associates (Transferee), filed a joint application for transfer of a major license for the Tionesta Lake Project No. 3307.

The purpose of the proposed transfer of the license is to facilitate the financing of the licensed project. The Transferee would sell limited partnership interests to a small number of investors. Limited partners would have no ownership of or control over the project.

The proposed transfer would not result in any changes in the proposed development or any change in control of the development. The Licensee and the Transferee are owned 100 percent by National Hydro Corporation, which would effectively control the project prior to the proposed transfer and would control the project after the proposed transfer.

No equipment has been contracted for or required to date. All engineering,

design and feasibility studies perform would be transferred to the Transferee.

The Transferee states that it would comply with all the terms and the conditions of the license. Construction is required to commence by January 26, 1986.

k. This notice also consists of the following standard paragraphs: B and C.

2 a. Type of Application: Transfer of License.

b. Project No.: 5124–004.

c. Date Filed: October 15, 1984.

d. Applicant: Washington Electric Cooperative, Inc. (Licensee) and Washington Electric Generation & Transmission Cooperative Inc. (Transferee).

e. Name of Project: North Brand #3.

f. Location: On the North Branch of the Winooski River in Washington County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contract Person: Frank Sahlman, Washington Electric Generation & Transmission Cooperative, Inc., P.O Box 8, East Montpelier, Vermont 05651.

i. Comment Date: January 25, 1985.

j. Description of Proposed Transfer: On October 15, 1984, Washington Electric Generation and Transmission Cooperative, Inc. (WEGTC), and Washington Electric Cooperative, Inc. (WEC), filed a joint application for transfer of the license from WEC to WEGTC.

The Licensee proposes to transfer the license to WEGTC in order to obtain financing from the Federal Financing Bank on terms substantially more favorable than those available to the Licensee. Licensee states that this transfer will save the Licensee's members (its ratepayers) approximately $176,000 in rates for electric service during the first year of operation and similar savings will be experienced thereafter.

The design, construction, and operation of the project would not change in any way because of the transfer. Construction started on March 12, 1984 and is expected to be completed before July 1, 1986.

WEC and WEGTC have entered into a contract under which WEC would be entitled to the entire power output of Project No. 5124, if the license is transferred.

Transferee has submitted evidence and states that it will comply with all applicable laws of the State of Vermont as required by Section 9(b) of the Federal Power Act.

k. This notice also consists of the following standard paragraphs: B and C.

3 a. Type of Application: Exemption from Licensing (5 MW or Less).

b. Project No: 5896–001.

c. Date Filed: January 20, 1984.

d. Applicant: City of Rome, New York.

e. Name of Project: Taberg.

f. Location: East Branch of Fish Creek in Oneida County, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705, and 2708 *as amended*).

h. Contact Person: Honorable Carl J. Eilenberg, Mayor, City of Rome, City Hall, Rome, New York 13340.

i. Comment Date: February 1, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing 235-foot-long 48-foot-high concrete gravity dam to be topped by proposed 2-foot-high flashboards; (2) an existing 5-acre reservoir at an elevation of 716 feet MSL which will be raised to 718 feet and have a negligible surface area increase; (3) an existing gatehouse; (4) the removal of an existing sluice gate; (4) a proposed 29-foot-long concrete diversion wall; (5) a proposed 25-foot-long concete power canal; (6) a proposed powerhouse containing two turbine/generator units each rated at 305 kW for a total installed capacity of 610 kW; (7) a proposed tailrace; (8) a proposed 100-foot-long transmission line; (9) a proposed switchyard; and (10) appurtenant facilities. The estimated average annual energy is 2,550 MWh.

k. Purpose of Project: Project energy would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. *Purpose of Exemption*—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

4. a. Type of Application: Transfer of License (Major).

b. Project No.: 6115–001.

c. Date Filed: May 31, 1984 amended on August 22, 1984.

d. Applicant: Hydro Development Group, Inc. and Pyrites Associates.

e. Name of Project: Pyrites Project.

f. Location: On the Grass River near the Town of Canton, St. Lawrence County, New York.

g. Filed Pursuant to: Section 9 of the Federal Power Act.

h. Contact Person: John Ransmeier, P.O. Box 1328, One Eagle Square, Concord, New Hampshire 03301.

i. Comment Date: January 25, 1985.

j. Description of Proposed Transfer: On September 23, 1983, a major license was issued to Hydro Development Group, Inc. to construct, operate, and maintain the Pyrites Project No. 6115. Hydro Development Group, Inc. intends to sell the project to Pyrites Associates, a private New York partnership. For that reason, Hydro Development Group, Inc. and Pyrites Associates have filed a request that the project license be transferred to Pyrites Associates. The Transferee has agreed that he will operate, construct and maintain the project in accordance with the terms and conditions of the license and there will be no changes to the project. Construction at the project was started in September of 1984.

k. This notice also consists of the following standard paragraphs: B and C.

5. a. Type of Application: Exemption (Less than 5 MW).

b. Project No.: 7922–000.

c. Date Filed: December 15, 1983.

d. Applicant: Alden T. Greenwood.

e. Name of Project: Chamberlain Falls.

f. Location: Souhegan River in Hillsboro County, New Hampshire.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Mr. Alden T. Greenwood, RR #1, Box 56, Greenville Road, Mason, New Hampshre 03048.

i. Comment Date: January 25, 1985.

j. Description of Project: The project consists of: (1) An existing 82-foot-long, 20-foot-high granite dam, owned by the Applicant; (2) an existing reservoir at an elevation of 774 feet m.s.l., with negligible surface area; (3) an existing entrance bay; (4) an existing 35-foot-long, 6-foot-diameter steel penstock; (5) an existing powerhouse containing an existing turbine and a proposed generator with an installed capacity of 130 KW; (6) an existing tailwater exit; (7) a new 12-foot-long, 480-volt transmission line; and (8) appurtenant facilities. The estimated average annual energy would be 380,000 kWh.

k. Purpose of Project: Project power would be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, B, C, D3a, and A9.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

6 a. Type of Application: Minor License.

b. Project No.: 8245–000.

c. Date Filed: April 16, 1984.

d. Applicant: Bellows-Tower Hydro, Inc.

e. Name of Project: Forge dam.

f. Location: On the Chateaugay River in Franklin County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Howard R. Doud, 500 Golfview Drive, Saginaw, Michigan 48603.

i. Comment Date: February 15, 1985.

j. Description of Project: The proposed project will consist of: (1) The existing, 155-foot-long, 20-foot-high, reinforced concrete dam at crest elevation 1,310 feet U.S.G.S.; (2) the existing impoundment, consisting of two lakes, with a surface area of 3,330 acres and a maximum storage capacity of 16,150 acre-feet; (3) a proposed 85-foot-long, 78-inch-diameter, penstock; (4) a proposed powerhouse to contain a 300-kW generating capacity; (5) a proposed 2,400-foot-long, 34.5-kV transmission line; and (6) appurtenant facilities. The existing dam and facilities are owned by the Towns of Bellmont, Dannemora and Ellenburg, N.Y. The Applicant estimates that the average annual energy generation will be 1,050 MWh. The Applicant intends to sell the power to the New York State Electric and Gas Corporation.

k. This notice also consists of the following standard pararaphs: A3, A9, B, C, and D1.

7 a. Type of Application: License (Under 5 MW).

b. Project No: 8303–000.

c. Date Filed: May 11, 1984.

d. Applicant: Power Authority of the State of New York.

e. Name of Project: Delta.

f. Location: On the Mohawk River in Oneida County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Stephen L. Baum, Senior Vice President and General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

i. Comment Date: February 15, 1985.

j. Competing Application: Project No. 7610–000, Dated Filed: September 12, 1983.

k. Desceiption of Project: the project will consist of: (1) The 1,016-foot-long Delta Dam with an approximate height of 76 feet; (2) the Delta Reservoir with a storage capacity of 63,200 acre-feet and a surface area of 2,700 acres at spillway crest elevation 550 feet (Barge Canal Datum); (3) an existing intake and outlet conduits; (4) a proposed powerhouse which will include two generating units with a total installed generating capacity of 3.4 MW; (5) a proposed 110-foot-long, open channel tailrace; (6) a proposed 400-foot-long, 13.2-kV transmission line; (7) a proposed switchyard; (8) the 4.16-kV generator leads; and (9) appurtenant facilities. The Applicant estimates the average annual energy generation to be 12.982 GWh.

The existing Delta Dam and Reservoir are owned by New York State and are under the jurisdiction of the New York State Department of Transportation.

l. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

8 a. Type of Application: Exemption (5MW or less).

b. Project No.: 8321–000.

c. Date Filed: May 25, 1984.

d. Applicant: Murray W. Thurston, Inc.

e. Name of Project: Thurston Mill Dam.

f. Location: On the Swift River in Oxford County, Maine.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708.

h. Contact Person: Murray W. Thurston, HCR 130, Bethel, Maine 04217.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would consist of: (1) The existing 9-foot-high, 150-foot-long, reinforced concrete gravity dam with a crest elevation of 515 feet m.s.l.; (2) an existing reservoir with a surface area of 2 acres; (3) a proposed 125-foot-long, 20-foot-wide intake canal; (4) a proposed powerhouse which will contain three generating units with a total installed generating capacity of 338 kW; (5) a proposed 150-foot-long, 20-foot-wide tailrace; (6) a proposed 100-foot-long transmission line; and (7) appurtenant facilities. The dam and appurtenant facilities are owned by J.A. Thurston Co., Inc. The Applicant estimates the average annual energy production to be 1,306,900 kWh.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 8431–000.

c. Date Filed: July 13, 1984.

d. Applicant: Mt. Storm Hydropower Associates.

e. Name of Project: Mt. Storm Hydropower.

f. Location: Potomac River in Grant County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: David M. Coombe, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403.

i. Comment Date: February 15, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 120-foot-high, 1,700-foot-long concrete dam owned by Virginia Power and Electric Company, with a crest elevation of 3,253 feet msl; (2) an existing reservoir with a surface area of 1,140-acres, and a storage capacity of 57,000 acre-feet; (3) a proposed powerhouse at the west abutment of the dam containing a generating unit with a rated capacity of 750 kW; and (4) a proposed 50-foot-long transmission line tying into the existing Virginia Electric Power Company's system. The Applicant estimates a 3,100,000 kWh average annual energy production.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18-months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 8446–000.

c. Date Filed: July 19, 1984.

d. Applicant: New Geneva Associates.

e. Name of Project: Monongahela Lock and Dam #7.

f. Location: Monongahela River in Fayette County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joel Kirk Rector, 324 South State Street, #500, Salt Lake City, Utah 84111.

i. Comment Date: February 15, 1985.

j. Description of Project: The proposed project would utilize the existing 21-foot-high, 610-foot-long concrete Corps of Engineers' Monongahela Lock and Dam #7 and would consist of: (1) A proposed powerhouse containing a generating unit with a rated capacity of 13.5 MW; (2) a proposed 100-foot-wide, 20-foot-long tailrace; and (3) a proposed 100-foot-long transmission line tying into the West Penn Power Company System. The applicant estimates a 50.7 GWh average annual energy production.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $100,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

11 a. Type of Application: Exemption (5MW or Less).

b. Project No.: 8486–000.

c. Date Filed: August 1, 1984.

d. Applicant: W.M. Lord Excelsior Company.

e. Name of Project: Union Village Dam.

f. Location: On the Branch River in Carroll County, New Hampshire.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Dr. George K. Lagassa, Mainstream Associates, 48 Congress Street, Portsmouth, New Hampshire 03801.

i. Comment Date: January 25, 1985.

j. Description of Project: The proposed project will consist of: (1) The existing 15-foot-high, 112-foot-long Union Village Dam (in accordance with an outstanding order by the New Hampshire Water Resources Board to increase spillway capacity, the existing 10-foot-long, west-end abutment will be modified and extended into an additional 21.7-foot-long spillway. The existing spillway has a crest elevation of 486.8 feet msl; however, the new 21.7-foot-long spillway crest elevation will be 485.3 feet msl with 2-foot-high flashboards mounted on top); (2) the existing 2-acre reservoir containing a gross storage capacity of 10-acre-feet; (3) an existing intake; (4) a proposed powerhouse immediately downstream of the intake to contain an installed generating capacity of 75 kW; (5) a proposed 14.33-foot-wide, 72-foot-long tailrace; (6) a 40-foot-long transmission line; and (7) appurtenant facilities. The Applicant estimates that average annual energy generation will be 237 MWh.

k. Propose of Project: The Applicant intends to sell the power output to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

12 a. Type of Application: Preliminary Permit.

b. Project No: 8512–000.

c. Date Filed: August 13, 1984.

d. Applicant: Geoffrey Shadroui.

e. Name of Project: Plainfield Village.

f. Location: Winooski River in Washington County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(a).

h. Contact Person: Mr. Geoffrey Shadroui, 121 Maple Avenue, Barre, Vermont 05641.

i. Comment Date: February 15, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 11-foot-high, 70-foot-long granite dam owned by the Town of Plainfield; (2) an existing reservoir with a surface area of 2-acres, a gross storage capacity of 11 acre-feet, and a normal maximum surface elevation of 736 feet msl; (3) a proposed 5-foot-diameter, 35-foot-long penstock; (4) a proposed powerhouse containing a generating unit with a rated capacity of 150 kW; (5) a proposed 2-foot-deep, 20-foot-wide; 60-foot-long tailrace; and (6) a proposed 150-foot-long transmission line typing into the Green Mountain Power Corporation System. The Applicant estimates a 525,000 kWh average annual energy production.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18-months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $3,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

13 a. Type of Application: Preliminary Permit.

b. Project No: 8641–000.

c. Date Filed: October 4, 1984.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: Ballardvale.

f. Location: Shawsheen River in Essex County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson and Mr. Joseph D. Brostmeyer, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, Massachusetts 01803.

i. Comment Date: February 15, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 9-foot-high, 40-foot-long fitted stone face, rock fill dam; (2) a reservoir with a surface area of 1.1 acres, no usable storage capacity and a normal water surface elevation of 70 feet m.s.l.; (3) an existing intake gate; (4) a new powerhouse at the right bank containing one generating unit with a capacity of 40 kW; (5) a new transmission line, 100 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual generation would be 200,000 kWh. The existing dam is owned by Augustine P. Sheehy, Andover, Massachusetts.

k. Purpose of Project: Project power would be sold to Massachusetts Electric Co.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $11,500.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 8652-000.

c. Date Filed: September 27, 1984.

d. Applicant: The Burlington Energy Development Associates.

e. Name of Project: Pleasant Street Pond.

f. Location: Beaver Brook in Middlesex County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson and Mr. Joseph D. Brostmeyer, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, Massachusetts 01803.

i. Comment Date: February 15, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 18-foot-high, 80-foot-long fitted stone face, rock filled dam; (2) a reservoir with a surface area of 4.6 acres, no usable storage capacity, and a normal water surface elevation of 75 feet m.s.l.; (3) an existing intake structure; (4) an existing powerhouse containing one generating unit with a capacity of 65 kW; (5) a new transmission line 100 feet long; and (6) appurtenant facilities. The Applicant estimates the average annual generation would be 325,000 kWh. The existing dam is owned by R. Goldman and E. Kaufman, Methuen, Massachusetts.

k. Purpose of Project: Project power would be sold to Massachusetts Electric Co.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $14,500.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 8653-000.

c. Date Filed: October 4, 1984.

d. Applicant: The Burlington Energy Development Associates.

e. Name of Project: Shawsheen River.

f. Location: Shawsheen River in Essex County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson and Mr. Joseph D. Brostmeyer, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, Massachusetts 01803.

i. Comment Date: February 15, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 9-foot-high, 60-foot-long piled rock face, rock fill dam; (2) a reservoir with a surface area of 0.7 acre, no usable storage capacity, and a normal water surface elevation of 40 feet m.s.l.; (3) an existing intake structure on the east bank; (4) an existing powerhouse on the east bank containing one generating unit with a capacity of 50 kW; (5) a new transmission line, 100 feet long; and (6) appurtenant facilities. The Applicant estimates the average annual generation would be 250,000 kWh. The existing dam is owned by Bretam R. Paley, Andover, Massachusetts.

k. Purpose of Project: Project power would be sold to Massachusetts Electric.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $11,500.

16a. Type of Application: Preliminary Permit.

b. Project No: 8683–000.

c. Date Filed: October 23, 1984.

d. Applicant: Yankee Hydro Company.

e. Name of Project: Swift River.

f. Location: West Branch of the Swift River in Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. George S. Bass, P.O. Box 1961, Boston, Massachusetts 02105.

i. Comment Date: February 18, 1985.

j. Description of Project: The proposed project would consist of: (1) A proposed 3-foot-high, 40-foot-long concrete diversion dam; (2) a proposed 900-square-foot reservoir impounding 11,000 gallons of water at an elevation of 1,390 feet ASL; (3) a proposed 7,000-foot-long, 14-inch-diameter conduit; (4) a proposed powerhouse containing one 99–kW turbine/generator unit; (5) a proposed 1,600-foot-long 480-volt transmission line; and (6) appurtenant facilities. The estimated average annual energy is 446 MWh.

k. Purpose of Project: Project energy would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasiability, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $14,000.

17a. Type of Application: License.

b. Project No: 4474–003.

c. Date Filed: September 27, 1984.

d. Applicant: Borough of Cheswick, Pennsylvania and the Allegheny Valley North Council of Governments.

e. Name of Project: Allegheny River Lock and Dam No. 3.

f. Location: On the Allegheny River in Allegheny County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Frederick Domarantz, Allegheny North Council of Governments, Springdale Borough Building, 325 School Street, Springdale, Pennsylvania 15144.

i. Comment Date: February 25, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Allegheny River Lock and Dam No. 3 and would consist of: (1) A portion of the existing spillway (135 feet) will be removed to form the entrance to the proposed headrace channel; the spillway capacity that is lost will be compensated for by the construction of a 142-foot-long side channel spillway along the riverward side of the headrace channel; (2) the proposed re-installation of 1-foot-high flashboards on a portion of the spillway crest; (3) a proposed powerhouse which will contain two, 6–MW generating units; (4) a proposed one-mile-long, 13.8-kV transmission line; and (5) appurtenant facilities.

The Applicant estimates that the average annual energy generation will be 61.1 GWh. The Applicant is negotiating with the Allegheny Power System for the sale of the power.

The Applicant was issued a permit for this project and filed the license application during the term of the permit.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

18 a. Type of Application: License (Over 5 MW).

b. Project No: 6681–001.

c. Date Filed: April 18, 1984 and supplemented August 30, 1984.

d. Applicant: F&T Services Corporation.

e. Name of Project: Jonesville Lock and Dam Hydro Project.

f. Location: On the Black River in Catahoula and Concordia Parishes, Louisiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ralph L. Laukhuff, Jr., Secretary-Treasurer, F&T Services Corporation, P.O. Box 64844, Baton Rouge, Louisiana 70896.

i. Comment Date: February 25, 1985.

j. Description of Project: The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Jonesville Lock and Dam, existing 18,000-foot-long and 750-foot-wide diversion channel, and existing closure dam that is located in the diversion channel which, also, parallels the Lock and Dam's structure. The proposed hydrogenerating facility, located entirely in the diversion channel, would consist of: (1) A proposed intake channel originating 250 feet from the closure dam's centerline; (2) three new 12-foot diameter steel penstocks each approximately 500 feet long; (3) a new powerhouse that would be constructed in the closure dam and that would house three 2,000–kW generators for a total installed capacity of 6,000 kW; (4) a proposed tailrace channel; (5) a new 29.4-kV transmission approximately 4 miles long; and (6) appurtenant facilities.

The lands of the United States affected by the project total 12.25 acres under the control of the U.S. Army Corps of Engineers inclusive of .48 acres of lands that will be required as an easement for the new 29.4–kV transmission line.

The Applicant estimates that the average annual generation would be 24,607 MWh. Project energy would be sold to Louisiana Power & Light. The license application was filed during the term of Applicant's preliminary permit Project No. 6681.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

19 a. Type of Application: Preliminary Permit.

b. Project No: 8220–001.

c. Date Filed: July 19, 1984.

d. Applicant: Wise Investments.

e. Name of Project: Child's Park Project.

f. Location: Wager Gulch, Hinsdale County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gary Wysocki, P.O. Box 582, Lake City, Colorado 81235.

i. Comment Date: February 25, 1985.

j. Description of Project: The proposed project will be located partially on private lands, partially on lands managed by the Bureau of Land Management, and partially on lands in Gunnison National Forest managed by the U.S. Forest Service and will consist of: (1) A proposed concrete intake structure 7 feet in length, 7 feet in width, and 4 feet high; (2) a proposed pipeline, 1.5 miles in length and approximately 20 inches in diameter; (3) a proposed 16 foot by 20 foot powerhouse with the installation of one turbine/generator unit, operating at a hydraulic head of 1300 feet, for a total installed capacity of 2000 kW; (4) the proposed upgrading of an existing transmission line to three phase and 14.4-kV and the proposed installation of a new transmission line connecting the powerhouse to the existing line located adjacent the project site; and (5) appurtenant facilities. The Applicant estimates the average annual energy generation to be 7.5 GWh.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facility to the Colorado Ute Electric Association.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $30,000.

20 a. Type of Application: Preliminary Permit.

b. Project No: 8399–000.

c. Date Filed: June 28, 1984.

d. Applicant: City of Ellensburg.

e. Name of Project: Swauk Teanaway.

f. Location: On Swauk Creek and Teanaway River, near the Town of Cle Elum, in Kittitas County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Douglas G. Williams, City of Ellensburg, P.O. Box 1087, Ellensburg, Washington 98926.

i. Comment Date: February 25, 1985.

j. Description of Project: The proposed project would consist of: (1) A 200-foot-long concrete diversion structure on Teanaway River at elevation 2,150 feet; (2) a 38,000-foot-long open earth canal and an 8,000-foot-long, 8-foot-diameter tunnel to Swauk Creek; (3) a 320-foot-high, 1,100-foot-long rockfill dam on Swauk Creek at elevation 1,788 feet creating a reservoir with 80,000 acre-feet active storage capacity and 650 acres of surface area; (4) a 1,600-foot-long, 8-foot-diameter penstock; (5) a powerhouse containing a single generating unit with a capacity of 4.2 MW and an average annual generation of 25,000,000 kWh; and (6) a 2,000-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $30,000. No new roads would be constructed during the feasibility study. Test borings would be conducted.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

21 a. Type of Application: Preliminary Permit.

b. Project No: 8509–000.

c. Date Filed: August 10, 1984.

d. Applicant: Dan DiRe, Roger Fong, Robert B. French, Eugene H. Ward and Anton A. Lind.

e. Name of Project: North Fork Cosumnes River Small Hydroelectric.

f. Location: On the North Fork Cosumnes River in El Dorado County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Anton A. Lind, Lind & Associates, 8715 Curragh Downs Drive, Fair Oaks, California 95628.

i. Comment Date: February 25, 1985.

j. Competing Application: Project No. 8488–000, Date Filed: August 2, 1984, "Due Date: December 12, 1984."

k. Description of Project: The proposed project would consist of: (1) A 15-foot-high rock and concrete diversion dam at elevation 2,100 feet; (2) a 400-foot-long, 60-inch-diameter low pressure pipe; (3) a 100-foot-long, 60-inch diameter penstock; (4) a powerhouse to contain a generating unit with a rated capacity of 500 kW that would operate under a head of 80 feet; and (5) a 12.5-kV, 200-foot-long transmission line would connect the project with an existing Pacific Gas and Electric Company line west of the powerhouse.

l. Purpose of Project: The estimated 1.5 million kWh of annual generation would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

22 a. Type of Application: Preliminary Permit.

b. Project No: 8579–000.

c. Date Filed: September 4, 1984.

d. Applicant: Rocky Mountain Hydro, Incorporated.

e. Name of Project: Crooked Creek.

f. Location: At the Bureau of Reclamation's Arthur R. Bowman Dam, on the Crooked River in Crook County, Oregon.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Michael L. Raisch, Rocky Mountain Hydro, Incorporated, 4065 South Roslyn Street, Denver, Colorado 80237.

i. Comment Date: February 25, 1985.

j. Description of Project: The proposed project would consist of the following construction and modifications to the Bureau of Reclamation's Arthur R. Bowman Dam: (1) A steel penstock installed within the 11-foot-diameter outlet tunnel; (2) a gated bifurcation structure located at the existing tunnel portal; (3) a 200-foot-long buried steel penstock; (4) a powerhouse containing generating facilities with a capacity of 2,800 kW and an average annual generation of 16 GWh; and (5) a 6-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $200,000. No new roads would be constructed during the feasibility study. Drilling will be conducted at the powerhouse location.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

23 a. Type of Application: Minor License.

b. Project No: 8660–000.

c. Date Filed : October 12, 1984.

d. Applicant: Boulder Hydro, A Limited Partnership.

e. Name of Project: Little Gold.

f. Location: On Little Gold Creek in Granite County, Montana, within Deerlodge National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: F. Lee Tavenner, Star Route, Hall, Montana 59837.

i. Comment Date: February 25, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 20-foot-long wooden diversion dam with a 3-foot-deep, 8-foot-long overflow notch, crest elevation 6,240 feet USGS datum; (2) an integral intake in the southern end of the dam; (3) a 15-inch-diameter, 2,280-foot-long low-pressure PVC pipeline; (4) a 12-inch-diameter, 3,000-foot-long steel penstock; (5) a 16-foot-wide, 20-foot-long concrete block powerhouse at elevation 5,520 feet containing a generating unit with a rated capacity of 350 kW producing an average annual energy output of 1.425 GWh; (6) a corrugated pipe tailrace; (7) a 200-foot-long, 25-kV transmission line from the transformer adjacent to the powerhouse to an existing Montana Power Company transmission line; and (8) 400 feet of new access road. The estimated cost of the project is $230,000 as of October, 1984.

K. Purpose of Project: To produce electricity to sell to Montana Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

24 a. Type of Application: Preliminary Permit.

b. Project No: 8703–000.

c. Date Filed : November 5, 1984.

d. Applicant: Mega Renewables.

e. Name of Project: Nevada State Supply Conduit.

f. Location: Nevada State Supply Conduit, Carson City County, Nevada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred G. Castagna, Mega Renewables, 2576 Hartnell Avenue, Redding, California 96002.

i. Comment Date: February 25, 1985.

j. Description of Project: The proposed project would utilize flows from the State Supply Conduit portion of the Marlette Lake water system and would consist of: (1) An existing intake structure at elevation 6,700 feet msl; (2) an existing 8-inch-diameter, 16,000-foot-long conduit leading to Upper State Reservoir; (3) a proposed 15-inch-diameter, 16,000-foot-long parallel conduit for projected increased flows; (4) a powerhouse at elevation 4,600 feet msl with a total installed capacity of 1,100 kW; and (5) a 300-foot-long, 12-kV transmission line to interconnect the project to an existing Sierra Pacific Power and Light Company line. Applicant estimates the average annual generation at 9.0 GWh using 2,000 feet of head a 8 cfs of flow. Project power would be sold to a utility. The project would occupy State of Nevada lands.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $115,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary

permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exempt application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) A preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal State, and local agencies that receive this notice through direct mailing from

the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statues. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: December 18, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33235 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E-8851-004]

Alabama Power Co.; Order on Remand Establishing Hearing Procedures; Electric Rates; Undue Discrimination

Issued: December 18, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

This matter involves the remand of various Commission orders relating to and including Opinion No. 54-A [1] by the United States Court of Appeals for the District of Columbia Circuit on November 1, 1984.[2] That court in 1982 remanded Opinion No. 54 to the Commission.[3] Opinion No. 54-A represents the Commission's attempt to comply with the court's remand directive. Without reopening the record, the Commission in Opinion No. 54-A determined that the discrimination found by the court was not undue and therefore required no remedy. The Commission pointed out that the record had not been "developed to the point that the Commission can make an intelligent finding regarding the variety of factors that must be considered in defining customer classes." 23 FERC at 61,832. The Commission stated further that since it had the discretion to choose remedies, it would follow its general policy of remedying improper rate designs for a locked-in period prospectively, rather than ordering refunds.

Discussion

In its unpublished order remanding Opinion No. 54-A to the Commission, the court directed the Commission to supplement the record, stating that the Commission must determine "whether separate rate classes are required to avoid undue discrimination * * * consistent with the prior decision of this Court as to burden of proof." Slip opinion at 1. The court also rejected the Commission's alternative ground for denying refunds, stating that it was not consistent with Commission precedent.

On November 13, 1984, Alabama Power Company (APC) filed a motion for the appointment of an administrative law judge and for the convening of a prehearing conference. The Municipal Electric Utility Association of Alabama and its member municipalities expressed their support for APC's motion in an answer filed on November 15, 1984. In order to expeditiously address the matters identified by the court of appeals, we shall convene a further evidentiary hearing in this case and we shall grant APC's procedural motion.

The Commission orders:

(A) APC's motion is hereby granted.

(B) Pursuant to the District of Columbia Circuit Court's decision, *Alabama Electric Cooperative, Inc.*, No. 83-2070, November 1, 1984, and the authority contained in and subject to the

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[1] *Alabama Power Company*, Opinion No. 54-A, 23 FERC ¶ 61,392 (1983); "Opinion and Order on Remand," Opinion No. 54, 8 FERC ¶ 61,083; "Order Clarifying Opinion and Order on Rates Modifying Initial Decision and Denying Applications for Rehearing," 8 FERC ¶ 61,320 (1979); "Letter Order Accepting Revised Compliance Filing," Docket No. E-8851 (issued May 1, 1981); and "Order Denying Rehearing," 15 FERC ¶ 61,303 (1981).

[2] *Alabama Electric Cooperative, Inc., et al.* v. *FERC*, No. 83-2070.

[3] The court directed the Commission to: (1) Determine whether a disparity of 0.45% in earned return between two customer groups in the same rate class (the municipalities and the cooperatives) resulted in undue discrimination under section 205 of the Federal Power Act; and (2) if the disparity is unduly discriminatory, to rectify such discrimination. *Alabama Electric Cooperative, Inc.*, 684 F.2d 20 (D.C. Cir. 1982).

jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held on the issue of whether separate reate classes are required to avoid undue discrimination. In order to assist the Commission in resolving this question, the parties should specifically address, among any other relevant considerations: Whether the alleged harm arises under section 205(b)(1) of the Federal Power Act, section 205(b)(2), or some other statutory provision; the relevant factors to consider in evaluating the municipal/cooperative rate of return differential and the appropriateness of separate rate classes in light of the pertinent statutory proscription; and the scope of remedies available and appropriate under the facts of this case.

(C) A presiding administrative law judge, to be designatd by the Chief Administrative Law Judge, shall convene a conference in this proceeding within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes, *inter alia*, of defining the nature of testimony to be presented and the scope and extent of discovery. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33236 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4834-001]

City of Rohnert Park; Surrender of Preliminary Permit

December 18, 1984.

Take notice that City of Rohnert Park, Permittee for the proposed Fall River Below Nelson's Crossing Power Project No. 4834, has requested that its preliminary permit be terminated. The preliminary permit was issued on May 29, 1984, and would have expired October 31, 1985. The project would have been located on Fall River in Butte County, California.

The Permittee filed the request on December 3, 1984, and the preliminary permit for Project No. 4834 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33237 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-76-000]

Columbia Gulf Transmission Co., Application

December 17, 1984.

Take Notice that on October 31, 1984, Columbia Guld Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in docket No. Cp85-76-000 an application, as supplemented November 28, 1984, pursuant to section 311(a)1 of the Natural gas Policy Act of 1978 and § 284.107 of the Commission's Regulations for long-term authorization to transport natural gas for Bridgeland Gas Distribution Company (Bridgeland), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 10,000 Mcf of natural gas per day for Bridgeland pursuant to the terms of the gas transportation agreement executed by the parties on July 3, 1984. Applicant intends to transport the gas from its measurement facilities, located in East Cameron Block 23, offshore Louisiana (point of receipt), and redeliver thermally equivalent volumes to delivery points in St. Charles, Terrebonne, and Lafourche Parishes, Louisiana.

Applicant intends to charge Bridgeland 24.95 cents for each Mcf of gas recived for transportation at the point of receipt. Applicant states that the transportation rate was devleoped using costs, rates, and factors supporting is filing at RP82-119. The primary term of service would be 15 years from the date of the initial delivery.[1]

Any person desiring to be heard or to make an protest with reference to said application should on or before January 4, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33238 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL84-29-000 and ER82-774-000, ER83-209-000, ER83-227-000, ER82-829-000, ER83-219-000, and EL83-6-000]

Town of Highlands, North Carolina, Haywood Electric Membership Corp., and North Carolina Electric Membership Corp. v. Nantahala Power and Light Co.; Order Accepting Complaint for Filing, Establishing Procedures, and Consolidating Proceedings; Electric Rates

Issued: December 19, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On July 30, 1984, the Town of Highlands, North Carolina, Haywood Electric Membership Corporation, and North Carolina Electric Membership Corporation (jointly, Customers) filed a complaint requesting the that Commission institute an investigation as to the justness and reasonableness of the rates being charged by Nantahala Power and Light Company (Nantahala) under its cost of service adjustment rate designated as the PL-(COSAC) Tariff. The Customers also request that the Commission consolidate their complaint with the proceedings in Docket Nos. ER82-774-000, *et al.* or, in the alternative, hold their complaint in abeyance, pending the outcome of the proceedings in Docket Nos. ER82-774-000, *et al.* Notice of the complaint was published in the **Federal Register,** with

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[1] Since filing its application, Applicant's latest general rate filing at RP84-79 became effective subject to refund. The transportation agreement between the parties provides that transportation charges would be increased or decreased pursuant to any rate proceeding of Applicant.

comments due on or before September 17, 1984. 49 FR 33489 (1984). No comments have been filed. Nantahala filed its answer to the Customers' complaint on September 17, 1984.

Background

The Commission previously approved a settlement agreement in Docket No. ER80–574–000 which permits Nantahala, under its PL–(COSAC) Tariff, to automatically flow through to its wholesale customers the costs of its power purchases from the Tennessee Valley Authority (TVA). Under Article III of the settlement agreement, Nantahala must file by March 31 of each year an annual report showing the development of PL–(COSAC) Tariff charges for the preceding calendar year. Article III further provides that, if a complaint is filed by any party by June 30 following Nantahala's submission of its annual report to the Commission, the PL–(COSAC) charges based upon costs for the preceding calendar year and any subsequent year (to the extent that the issues are the same) will be subject to refund pending resolution of all matters in question.

Nantahala's purchased power costs were determined through the end of 1982 by the New Fontana Agreement (NFA) and the 1971 Apportionment Agreement. As of January 2, 1983, Nantahala's purchased power costs are governed by a new agreement with TVA which is presently under investigation in Docket Nos. ER82–774–000, *et al.* The Customers are parties to the pending proceeding in which they have alleged that the new agreement may be unjust, unreasonable, or unduly discriminatory and that the amounts that Nantahala pays to TVA for power under the new agreement are excessive.[1]

On June 30, 1983, the Customers filed a complaint in Docket No. EL83–29–000 (pursuant to Article III of the settlement agreement in Docket No. ER80–574–000) in order to preserve their right to rate relief for any charges determined to be excessive under the new agreement. The Commission stated, in an order issued on November 4, 1983, 25 FERC ¶ 61,168, that it was premature under Article III of the settlement, for Nantahala's customers to file a complaint which applied to charges based on costs governed by the new agreement between Nantahala and TVA which did not become effective until January 2, 1983. In an order denying rehearing, issued on December 19, 1983, 25 FERC ¶ 61,395, the Commission determined that the appropriate time for the wholesale customers to file a complaint concerning costs incurred by Nantahala in 1983 would be June 30, 1984, following Nantahala's submission of its annual report showing the development of COSAC tariff charges for 1983.

By letter dated March 30, 1984, Nantahala submitted its revised PL–(COSAC) rates, effective for the year beginning April 1, 1984. These rates were based on a calendar year 1983 cost of service. The Customers filed their complaint and motion on July 30, 1984,[2] in the instant docket, pursuant to Article III of the settlement agreement, to ensure their right to refunds in the event that Nantahala's purchased power costs are determined to be excessive in Docket Nos. ER82–774–000, *et al.* The Customers state that their complaint addresses only Nantahala's 1983 purchased power expenses, as determined by the new interconnection agreement, and is not intended to raise any other issues regarding the reasonableness of the company's current COSAC rate.

In its answer, Nantahala denies the Customers' allegations that the new interconnection agreement is unjust, unreasonable, or unduly discriminatory, and further denies the allegation that the amount of power and the rate it pays for power purchased from TVA are excessive. However, Nantahala does not object to the Customers' motion to hold the instant complaint in abeyance pending a determination in Docket Nos. ER82–774–000, *et al.*

Discussion

We shall accept for filing the complaint filed by the Customers and institute and investigation as to the reasonableness of Nantahala's 1983 purchased power expenses, as determined by the new interconnection agreement. Because the instant complaint is limited to issues currently being determined in the proceeding in Docket Nos. ER82–774–000, *et al.*, and we do not believe that any new evidence need be presented to ascertain the Customers' potential refund rights generated by their complaint, we shall consolidate the instant complaint with the proceeding in Docket Nos. ER82–774–000, *et al.*, for purposes of a decision on the question of remedy.[3]

The Commission orders:

(A) The Customers' complaint is hereby accepted for filing.

(B) Docket No. EL84–29–000 is hereby consolidated with Docket Nos. ER82–774–000, ER83–209–000, ER83–227–000, ER82–829–000, ER83–219–000, and EL83–6–000, for purposes of determining any appropriate remedy due to the Customers.

(C) The Secretary shall promptly publish this order in the **Federal Register**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–33239 Filed 12–20–84; 8:45 am]

BILLING CODE 6717–01–M

[1] A hearing in Docket Nos. ER82–774–000, *et al.*, was held in January, 1984; reply briefs were filed on May 7, 1984.

[2] Article III of the settlement agreement in Docket No. ER80–574–000 provides that complaints must be filed by June 30 following Nantahala's submission of COSAC tariff charges for the preceding year. On July 3, 1984, the Customers were granted an extension of time until July 30, 1984, in which to file a complaint concerning the company's PL–(COSAC) rates for 1983.

[3] We will establish further hearing procedures at a later date, in the event that the presiding admininstrative law judge in Docket Nos. ER82–774–000, *et al.*, determines that additional evidence on the question of remedy under the Customers' complaint is required.

[Docket No. 7956–001]

Madera Hydro Partners; Surrender of Preliminary Permit

December 18, 1984.

Take notice that Madera Hydro Partners, the Permittee for the Buchanan Dam Project No. 7956 has requested that the preliminary permit be terminated. The preliminary permit for Project No. 7956 was issued on July 20, 1984, and would have expired on December 31, 1985. The project would have been located on Chowchilla River in Madera County, California.

The Permittee filed the request on November 30, 1984, and the preliminary permit for Project No. 7956 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–33240 Filed 12–20–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85-126-000]

Mid Louisiana Gas Co.; Application

December 17, 1984.

Take notice that on November 26, 1984, Mid Louisiana Gas Company (MidLa), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP84-126-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing MidLa to construct and operate an additional point of delivery to Gas Utility District No. 2 of East Feliciana Parish, Louisiana (Gas Utility), all as more fully set forth in the request on file with the Commission and open to public inspection.

MidLa proposes to construct and operate tap facilities necessary to provide an additional delivery point to Gas Utility near the town of Clinton, East Feliciana Parish, Louisiana. MidLa states it would deliver 500 Mcf of natural gas per day on a peak basis and 37,000 Mcf of natural gas annually through the proposed facilities. MidLa further states that the volume of gas to be provided through the new point of delivery is within its authorized level of sales. The proposed service would be provided pursuant to MidLa's Rate Schedule SG-1, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unncesccary for MidLa to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33241 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-81-000]

Chesapeake Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 17, 1984.

On November 9, 1984, Chesapeake Corporation (Applicant), located at Route 30, North, West Point, Virginia 23181, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will use pulp and wood wastes as the primary energy source for a double automatic extraction condensing steam turbine and is expected to have a net power production capacity of 45.25 MW. Extracted steam generated by the facility will be used in the Applicant's paper mill process. This facility is located at Route 30, North, West Point, Virginia. Construction of the facility began in December 1982, and it is expected to begin operation in August 1985.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33245 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-82-000]

Clearwater Hydro Limited Partnership; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 17, 1984.

On November 9, 1984, Clearwater Hydro Limited Partnership (Applicant), located at 125 Johnson Avenue, P.O. Box 64, Orofino, Idaho 83544, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 2.06 NW small power production facility is located at Orofino Creek in Clearwater County, Idaho. It is a hydroelectric generation facility (Project No. 8468), and the primary energy source is water.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33246 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-112-000]

Delta Energy Project—Phase VI; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 17, 1984.

On November 29, 1984, Delta Energy Project—Phase VI (Applicant), located

at 177 Bovet Road, Suite 520, San Mateo, California 94402, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is a wind energy generation park located on 250 acres of land leased from the State of California Department of Water Reesources (DWR) and located adjacent to the Bethany Reservoir in the Altamont Pass area near Tracy, California. The facility includes up to one hundred (100) wind turbine generators, will produce up to 7.5 MW of power to be delivered to and used by DWR.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Colpies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–33247 Filed 12–20–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF85–89–000]

General Electric Credit Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 17, 1984.

On November 13, 1984, General Electric Credit Corporation of 260 Long Ridge Road, P.O. Box 8300, Stamford, Connecticut 06902, and Cardinal Cogen of California (Applicants) submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Leland Stanford Junior University in Stanford, California. The facility will contain one combustion turbine generator, a heat recovery boiler and an extraction steam turbine-generator. The extracted steam will be used for campus heating and also for chilled water production. The net electric power production of the facility is 48,000 kW. The surplus power over the use at the university will be sold to Pacific Gas and Electric Company. The primary energy source will be natural gas. Operation of the facility is expected to begin in late 1986. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–33248 Filed 12–20–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF85–91–000]

Hoffman-LaRoche, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 17, 1984.

On November 14, 1984, Hoffman-LaRoche, Inc., of 340 Kingsland Street, Nutley, New Jersey 07110 (Applicant), submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Applicant's address. The facility will consist of three combustion turbine generator sets with three heat recovery steam boilers. The primary fuel will be interruptible natural gas. When natural gas is not available, the combustion turbines will be converted to operate on No. 2 fuel oil. The electric power production capacity will be 11,583 kilowatts. The useful thermal output will be used for process heat and laboratory space heating. Construction is scheduled to begin in March 1985.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–33249 Filed 12–20–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF85–101–000]

Santa Margarita Water District; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 17, 1984.

On November 13, 1984, Santa Margarita Water District (Applicant), located at 26101 Marquerite Parkway, Mission Vieqo, California 92690, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 150 kW engine-driven induction generator facility shall be fueled with digester gas produced by anaerobic digesters at the Chiquita Water Reclamation Plant, the site of the small power production facility. The facility will be located in Chiquita Canyon approximately 1.5 miles north of Ortega Highway, in the southern portion of Orange County, California.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North

Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determing the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33250 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-90-000]

Vulcan Materials Co., Chemicals Division; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 17, 1984.

On November 13, 1984, Vulcan Materials Company, Chemicals Division (Applicant), located at One Metroplex Drive, P.O. Box 7689, Birmingham, Alabama 35253, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be built at Vulcan's Geismar, Louisiana plant. The facility will supply steam and electricity to Vulcan's Geismar chemical plant. The cogeneration facility will consist of two combustion turbine/generators; two waste heat recovery boilers with supplementary firing capability; and, a single extracting-condensing steam turbine/generator. The facility's primary energy source will be natural gas. The net power production capacity is 105.7 MW. Construction of the facility is scheduled to begin in November 1984.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commisson in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 84-33251 Filed 12-20-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2740-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 3, 1984 through December 7, 1984 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D-AFS-L61161-WA, Rating EC1, Mt. St. Helens Nat'l. Volcanic Monument, Comprehensive Mgmt. Plan, Gifford NF, WA. Summary: The DEIS did not provide sufficient rationale to support the identified preferred alternative; another alternative is favored because of reduced impacts to research values, sediment delivery, and risk to structures.

ERP No. DB-COE-H36092-NB, Rating EC2, Papillion Creek and Tributaries Flood Control Plan, NB. Summary: EPA believes there is a potential for significant water quality problems associated with the impoundment alternatives proposed for this project. Additional information was requested on potential health risks associated with body contact recreation, impacts of pesticide use in the watershed, and water quality monitoring provisions. EPA suggested that the COE develop a reservoir management plan that specifically addresses activities which might impact water quality.

ERP No. D-FHW-F40280-IN, Rating EC1/LO, Lynch Road Extension, Oak Hill Road to IN-62, IN. Summary: Alternatives B and D are rated EC1. Alternative A and the no action alternative are rated LO. EPA identified several areas of environmental impact including the introduction of traffic noise into presently rural areas, degradation of riparian habitat, and removal of prime agricultural land from production. EPA recommends the selection of Alternative A, with mitigation as this is the environmentally preferable alternative and would minimize the severity of the adverse environmental effects.

ERP No. D-FHW-F40281-MI, Rating LO, MI-44/East Beltline Avenue, Reconstruction, I-96 to Plainfield Avenue, MI. Summary: EPA's review did not identify any potential environmental impacts requiring substantive changes to the selected alternative. Adequate mitigation is being proposed for the minor impacts associated with the project.

ERP No. D-SCS-D36099-MD, Rating EO2, Goldsboro Watershed Multipurpose Plan, MD. Summary: EPA identified potential wetland and water quality impacts of the project as currently proposed. EPA also identified additional information and analysis as being required to fully assess the project impacts. Mitigation measures were recommended to minimize the adverse impacts identified.

ERP No. D-SCS-F36150-IL, Rating EC2, Lower Des Plaines Tributaries Watershed Multipurpose Plan, IL. Summary: EPA requested additional characterization of the floodplain forest and an assessment of the potential effects of dike construction of the forest. The floodplain forest is one of the few remaining natural areas in an otherwise urbanized watershed and appropriate measures to minimize potential impacts should be identified.

Final EISs

ERP No. F-BLM-J65124-WY, Platte River Area Resource Mgmt. Plan, WY. Summary: The FEIS responded to EPA's concerns on the DEIS. Future practices under the proposed RMP should help reduce sediment loading in the North Platte River.

ERP No. F-DOE-K08010-AZ, Liberty-Coolidge 230 kV Transmission Line, C/O/M, AZ. Summary: The FEIS adequately addressed the issues EPA had raised in its review of the DEIS.

ERP No. F2-FHW-B40037-00, I-895 Upgrading/Construction, I-95 in Richmond, RI to I-195 in Swansea, MA. Summary: EPA believes that the proposed action is environmentally preferable to the other alternatives considered but that a commitment to

implementation of the mitigation measures addressed in the FEIS is necessary for the project to be environmentally acceptable.

Regulations

ERP No. R-ARS-A86216-00, National Environmental Policy Act, Implementing Procedures. Summary: EPA suggested that the regulation include a section on scoping. EPA also suggested that a number of activities listed as generally requiring only environmental assessments be reexamined since several of the items could have significant enough impacts to require preparation of an EIS.

Dated: December 18, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-33216 Filed 12-20-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2740-6]

Environmental Impact Statements; Availability

Responsible agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed December 10, 1984 through December 14, 1984 Pursuant to 40 CFR 1506.9.

EIS No. 840553, FSuppl, COE, NY, Conesus Lake Flood Damage Reduction, Livingston County, Due: January 21, 1985, Contact: Philip Frapwell (716) 876-5454.

EIS No. 840562, Draft, AFS, WV, Monongahela National Forest Land and Resource Management Plan, Due: March 29, 1985, Contact: Ralph Mumme (304) 636-1800.

EIS No. 840563, FSuppl, COE, MI, Point Mouillee Wetland Establishment in Connection with Disposal of Dredged Material, Detroit and Rouge Rivers, Monroe County, Due: January 21, 1985, Contact: Barbara Schmitt (301) 226-7590.

EIS No. 840564, Draft, BLM, AZ, Phoenix/Kingman Resource Areas, WSA's Designation, Mohave, Maricopa, Yavapai, Pinal and Pima Counties, Due: March 11, 1985, Contact: Bill Carter (602) 863-4464.

EIS No. 840565, Final, FHW, MN, Anoka County Road 116 Extension/Bridge Construction over the Rum River, MN-47 to MN-7, Anoka County, Due: January 21, 1985, Contact: Stephen Bahler (612) 725-5956.

EIS No. 840566, DSupp, NOA, HI, Hawaiian Monk Seal Critical Habitat, Designation, Northwestern Hawaiian Islands, Due: February 15, 1985, Contact: William Gordon (202) 634-7283.

EIS No. 840567, DSupply, AFS, WY, Bighorn National Forest Land and Resource Management Plan, Due: March 28, 1985, Contact: Elena Green (202) 447-4710.

EIS No. 840568, Draft, FHW, GA, Murray Road Construction, Washington Road and Cherry Street to Reynolds Street, Columbia and Richmond Counties, Due: February 4, 1985, Contact: D.J. Altobelli (404) 881-4751.

EIS No. 840569, Final, OSM, MT, Westmoreland Resources/Absaloka Mine Operation, Permit, Big Horn County, Due: January 21, 1985, Contact: Charles Albrecht (303) 844-5656.

EIS No. 840570, Final, COE, GA, Bellville Point Navigation Improvements, Sapelo River, McIntosh County, Due: January 21, 1985, Contact: Tom Yourk (912) 944-5793.

EIS No. 840571, DSuppl, AFS/APH, PRO, CT, DE, ME, MD, MA, MI, NH, NJ, NY, PA, RI, VT, VA, WV, CA, IL, IN, MN, NC, OH, SC, OR, TN, WA, WI, Gypsy Moth Suppression and Eradicaton Program, Due: February 4, 1985, Contact: Peter W. Orr (205) 461-3153.

EIS No. 840572, Draft, BLM, MT, Garnet Resource Area, Resource Management Plan, Missoula, Granite and Powell Counties, Due: March 13, 1985, Contact: David Baker (406) 329-3914.

Amended Notice

EIS No. 840520, Draft, ISR, ND, Dunn-Nokota Project, Water Supply Contract Approval, Lake Sakakawea, Dunn County, Due: January 23, 1985, Published FR 11-23-84—Review extended.

Dated: December 18, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-33215 Filed 12-20-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. 84-273]

Annual Report of FSLIC-Insured Institutions; Special Section L

Dated: December 13, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a request for extension, without revision, of an information collection, "Annual Report of FSLIC-Insured Institutions Special Section L", to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

COMMENTS: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork-burden aspect of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Richard Pickering, Office of Policy and Economic Research. Phone: 202-377-6770.

By the Federal Home Loan Bank Board.

J. J. Fian,

Secretary.

[FR Doc. 84-33192 Filed 12-20-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is given that the following applicants have filed with the Federal Maritime Commission applications as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Sunshine Loading Service, Inc., 7343 NW. 79th Terrace, Miami, FL 33166
Officers: Donald D. Klinger, President; Frederick Sorg, Vice President

Josephine Santiamo Jastremski dba J. Santiamo, 304 Caswell Avenue, Staten Island, NY 10314

Wesco Shipping (U.S.A.) Ltd., 130 Madison Avenue, New York, NY 10016
Officers: Daria Alfonso, President/Director; Manuel G. Voigt, Secretary

S & U International, Suite 411, Stafford, TX 77477
Officers: Suchada Kojsoontorn, President/Director; George W. Yan, Secretary/Director; Unchern Anuntpira, Vice President/Director

Dated: December 17, 1984.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-33194 Filed 12-20-84; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.	Name and address	Date revoked
2031-R	Panatlantic American Freight, Inc., 74 Broad Street, New York, NY 10004.	Nov. 30, 1984.
1378	Street Brothers, Inc., 235 Bay Street, Charleston, SC 29402.	Dec. 3, 1984.
1076	Shipco, Inc., 5300 Memorial Drive, Suite 460, Houston, TX 77007.	Dec. 8, 1984.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-33193 Filed 12-20-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Merchants Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and §225.14 of the Board's Regulation Y (12 CFR 225.15) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 11, 1985.

A **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Merchants Bancorp, Inc.*, Allentown, Pennsylvania; to acquire 100 percent of the voting shares of Number One Bancorp, Inc., Scranton, Pennsylvania thereby indirectly acquiring First State Bank of Hawley, Scranton, Pennsylvania.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Des Plaines National Bancorp, Inc.*, Des Plaines, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Des Plaines National Bank, Des Plaines, Illinois.

Board of Governors of the Federal Reserve System, December 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33189 Filed 12-20-84; 8:45 am]

BILLING CODE 6210-01-M

Valley Bankcorp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 11, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Valley Bancorporation*, Appleton, Wisconsin; to acquire BancWis Leasing Company, Inc., Janesville, Wisconsin, thereby engaging in the leasing of personal property in the Janesville and Evansville, Wisconsin markets.

Board of Governors of the Federal Reserve System, December 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33190 Filed 12-20-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on December 4, 1984.

Public Health Service

Office of the Assistant Secretary for Health

Subject: Cognitive Aspect of Survey Methodology: Development of New Methodology for Design and Testing of National Health Interview Survey—Revision 0937-0140

Respondents: Individuals

Subject: 1985 National Nursing Home Survey—Revision 0937-0115

Respondents: Individuals, businesses, non-profit institutions, small businesses
Subject: Evaluation of National Cause-of-Death Data Pretest—Revision 0937–0133
Respondents: State/Local governments; businesses; federal agencies/employees; non-profit institutions; small businesses or organizations
OMB Desk Officer: Fay S. Iudicello

Health Resources and Services Administration

Subject: Application for Participation in the National Health Service Corps Scholarship Program—Extension 0915–0072
Respondents: Individuals
Subject: Nurse Practitioner Traineeship Grant Program—Extension 0915–0083
Respondents: Individuals, non-profit institutions
Subject: HRSA Competing Training Grant Application and Supplements Revision—0915–0060
Respondents: Non-profit institutions
Subject: HRSA Noncompeting Training Grant Application and Supplements Revision—0915–0061
Respondents: Non-profit institutions
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Medical Device and Laboratory Product Problem Reporting Program—Revision 0910–0143
Respondents: Individuals
Subject: Drug Product Problem Reporting System—Extension—0910–0024
Respondents: Individuals, businesses, non-profit institutions, small businesses
Subject: Reporting Requirements Applicable to Manufacturers of Blood Grouping Serum—Extension 0910–0137
Respondents: Businesses
Subject: Tamper Resistent Packaging Requirements for Certain OTC Human Drug and Cosmetic Products—Revision 0910–0149
Respondents: Businesses
OMB Desk Officer: Bruce Artim

Centers for Disease Control

Subject: Human Health Consequences of Polybrominated Biphenyls (PBBS) Contamination in Farms in Michigan—Revision—0920–0030
Respondents: Individuals
Subject: Health Risks in Information Processing—New
Respondents: Individuals, businesses
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Hospital Providers of Long-term Care (Swing-Bed Provision HCFA 345–Reinstatement—0938–0253
Respondents: State Medicaid Agencies
Subject: Patient Care and Services Survey Report Form (HCFA–519) New
Respondents: States
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: December 17, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

FR Doc. 84–33159 Filed 12–20–84; 8:45 am]
BILLING CODE 4150–04–M

Health Resources and Services Administration

Availability of Funds for Community Health Centers and Migrant Health Centers and Programs

AGEMCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) has determined that up to $52 million in grant funds are available under the Department's Fiscal Year 1985 appropriation, Pub. L. 98–619, for funding new Community Health Centers (CHCs) and Migrant Health (MH) centers and programs and for the expansion of services by existing CHCs and MH grantees.

DATE: To receive consideration, applications for new CHCS and MH centers and programs must be received by February 1, 1985, in the appropriate regional office (see Appendix for listing of regional offices). Applications to support the expansion of services by currently funded CHC and MH grantees may be filed at the time of, and as part of, their Fiscal Year 1985 renewal applications. Alternatively, grantees may request separate supplemental awards by June 1, 1985.

FOR FURTHER INFORMATION CONTACT: Information may be obtained from, and applications should be mailed to, the appropriate Regional Health Administrator (see Appendix).

SUPPLEMENTARY INFORMATION: HRSA has determined that approximately $52 million are available under the CHC and MH authorities (sections 330 and 329 of the Public Health Service (PHS) Act, 42 U.S.C. 254c and 254b, respectively) for the funding of new CHCs and MH centers and programs and for the expansion of activities of existing centers and programs. Approximately $48 million are available for CHCs and $4 million are available for MH centers and programs.

Migrant health "centers" and "programs" have different requirements under the authorizing statute and its implementing regulations. Migrant health centers must offer a full range of specified primary and supplemental services and serve a "high impact area" (an area having not less than 4,000 migratory agricultural workers and seasonal workers residing in its boundaries for more than two months in any calendar year). See section 329(d)(1)(A), PHS Act, and 42 CFR Part 56, Subpart C. On the other hand, Migrant health "programs" may be funded in areas where there is no migrant health center and in which not more than 4,000 migratory agricultural workers and their families reside for more than two months. The range of services which a program must provide is more limited than that of a center. See Section 329(d)(1)(B), PHS Act, and 42 CFR Part 56, Subpart F.

The expansion of activities for existing grantees includes, among other things, the establishment of satellite clinics, the expansion of service capacity, and related activities directed toward the expansion and the improvement of the delivery of services, such as improved financial management, planning, marketing, and outreach activities. The extent to which applicants for expansion funds have or plan to develop cooperative linkages and arrangements with other State and local health care organizations, such as through rural consortia and urban networks, will be considered as applications are reviewed. See 42 CFR 51c.305 (i) and (j), 56.305(a) (6) and (7), and 56.604(a)(2) (iii) and (iv).

Applications for operational funding for "new starts" for CHCs and MH centers and programs, meeting the applicable requirements of sections 330 and 329 of the PHS Act and the implementing regulations (42 CFR Parts 51c and 56), are now being accepted. Applications will be evaluated in accordance with criteria set forth in the CHC and MH center and program regulations (42 CFR 51c.305, 56.305, and 56.604, respectively). The grant support awarded under this notice may be used to provide primary health services and

needed supplemental ambulatory health services, *except* for inpatient care services.

In reviewing applications, the Department will examine the extent to which the applicant proposes to serve high priority need areas. For Migrant Health applications, relative need of the populations to be served will be determined primarily on the basis of the number of migratory agricultural and seasonal farmworkers to be served and on the extent of unmet health needs in such areas. In the case of the CHC program, the need/demand assessment required under section 330(e)(2) of the PHS Act will be important consideration. An applicant's need/demand assessment should include an analysis of its area's unemployment and its impact on the proposed service population's access to health care.

In addition, as provided in the regulations under 42 CFR 51c.305(e), 56.305(a)(4), and 56.604(a)(2)(ii), the administrative and management capability of the applicant will be an important consideration. Also the Department wished to highlight that the degree to which applicants intend to integrate services with other grantees and the extent to which other community resources will be utilized are award evaluation critieria under the CHC and MH regulations. See 42 CFR 51c.305 (i) and (j), 56.305)a (6) and (7), and 56.604(a)(2) (iii) and (iv). Therfore, the fact that a new start applicant is part of a rural health consortium or an urban health network or is linked to other CHC and MH projects will be considered.

Section 51c.104(b)(5) of the CHC regulation and section 56.104(b)(6) of the MH regulation require applicants to include letters and other forms of evidence showing efforts to secure financial and professional assistance and support for the project and to secure continuing community involvement. Proposed applicants for CHC and MH projects are advised to seek such evidence of support, from, among others, local officials and medical societies. Evidence that such sought will be considered in determining which applicnats will be awarded grants under this announcement.

The CHC and MH grants are subject to the provisions of Executive Order 12372, as implemented by 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The CHC and MH application packages to be made available by regional offices will contain a listing of States which have chosen to set up such a review system and will provide the point of contact in such States for that review. Applicants are encourage to contact such States as soon as possible in the application process to discuss their plans and to submit their application to such States as soon as possible so that the State review can be peformed in a timely manner. By regulation, interested States are allowed 60 days for review of competing applications and 30 days for non-competing applications. At the latest, States should receive applicatioins at the same time they are due in the regional office.

Under the terms of the Primary Care Block Grant legislation (secion 1923 of the PHS Act, 42 U.S.C. 300y–2), the Department is requried to solicit comments from the Governor of the State and appropriate local officials prior to awarding CHC grants. Since these comments are an essential part of a grant applications's review, CHC applicants are advised to request that such comments, be sent to the appropriate regional office prior to due date of their application.

The CHC program is listed as No. 13.224, and the MH program is listed as No. 13.246 in the OMB *Catalog of Federal Domestic Assistance.*

Dated: December 17, 1984.

Robert Graham, M.D.,

Administrator, Assistant Surgeon General.

Appendix

Regional Health Administrators

Edward J. Montminy, Regional Health Administrator, PHS—Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223–6827

Vivian Chang, M.D., Regional Health Administrator, PHS—Region II, 26 Federal Plaza Building, New York, New York 10007, (212) 264–2560

William Lassek, M.D., Regional Health Administrator, PHS—Region III, P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637

George A. Reich, M.D., M.P.H., Regional Health Administrator, PHS—Region IV, 101 Marietta Tower, Atlanta, Georgia 30323, (404) 221–2316

E. Frank Ellis, M.D., Regional Health Administrator, PHS—Region V, 300 S. Wacker Drive, Chicago, Illinois 60606, (312) 353–1385

Sam Bell, Regional Health Administrator, PHS—Region VI, 1200 Main Tower Building, Dallas, Texas 75202, (214) 767–3879

Youn Bock Rhee, Regional Health Administrator, PHS—Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291

Audrey Nora, M.D., Regional Health Administrator, PHS—Region VIII, 1961 Stout Street, Denver, Colorado 80294, (303) 844–6163

Sheridan L. Weinstein, M.D., Regional Health Administrator, PHS—Region IX, 50 United Nations Pl., San Francisco, California 94102, (415) 556–5810

Dorothy H. Mann, Regional Health Administrator, PHS—Region X, 2901 Third Avenue, Seattle, Washington 98121, (206) 442–0430

[FR Doc. 84–33219 Filed 12–20–84; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Announcement of Availability of Grants for Research on Adolescent Family Life

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.

ACTION: Notice.

SUMMARY: This is to announce the availability of grant funds for research on adolescent family life as authorized by Title XX of the Public Health Service Act. Grant awards will be made to investigate three areas: (1) Adolescent mothers' knowledge of child development and attitudes toward childrearing; (2) social and emotional development of infants born to adolescent mothers; and (3) the impact of pregnancy and/or childrearing on the psychological development of the adolescent mother.

ADDRESSES: Application kits may be obtained from the Grants Management Office, Office of Adolescent Pregnancy Programs, Room 1351, 330 Independence Avenue, SW, Washington, D.C. 20201

Applications should be sent or delivered to: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, MD 20205.

DATES: Applications must be received at the above NIH address no later than 4:30 p.m. Eastern time, April 15, 1985.

Research proposals will be reviewed and grant award decisions will be made during Summer 1985. The earliest start date for grant awards would be September 1, 1985. The latest start date for grant awards would be January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Gerry Hendershot, Office of Adolescent Pregnancy Programs, at (202) 245–7473.

SUPPLEMENTARY INFORMATION:

I. Background

Title XX of the Public Health Service Act authorizes research concerning the societal causes and consequences of adolescent premarital sexual relations, contraceptive use, pregnancy and childrearing. Title XX also provides for research to identify effective services which alleviate, eliminate, or resolve any negative consequences of adolescent premarital sexual relations and adolescent childbearing for the parents, the child and their families.

II. Research Areas

A. Adolescent Mother's Knowledge of Child Development and Attitudes Toward Childrearing

The few studies in this area suggest that many adolescent mothers hold inaccurate expectations concerning infant development, both underestimating and overestimating the ages of such developmental milestones as social smiling, sitting and walking, speaking first words, and showing intentional or willful behavior. Other studies indicate that adolescent mothers have more punitive, negative childbearing attitudes than adult mothers, i.e., believing that immediate responsiveness to a 3-month-old in distress will "spoil" the child. Some researchers have proposed that the negative childrearing beliefs may be related to adolescents' inaccurate knowlege of children. However, very little empirical work addresses these issues. Therefore, OAPP requests applications for reseach which will answer one or more of the following questions:

1. What is the relationship between adolescent mothers' knowledge of child development and their childrearing attitudes?

2. What are the relationships among adolescent mothers' childrearing knowledge and attitudes and their parenting behavior? Are there changes over time as the adolescent mother gains experience?

3. How does the grandmother influence the teen mother's knowledge of children and attitudes toward childrearing?

4. What are the other major factors that influence the teen mother's knowledge and attitudes regarding children and childrearing? How do these factors, including family size, composition and structure, and the teen mother's prior experience and exposure to childrearing, influence her current knowledge and attitudes in this area?

For all of these questions, particular emphasis should be placed on contrasting very young mothers and older adolescent mothers, because existing research indicates that the younger the mother, the more pronounced are the negative attitudes and inaccurate knowledge. Furthermore, a control group of adult primiparous mothers is desirable because of the paucity of research in general on the links among child development knowledge, childrearing attitudes, and parenting behavior.

B. Social and Emotional Development of Infants Born to Adolescent Mothers

Research over the last decade has revealed the importance of the infant's attachment to his or her mother, an affectional tie that emerges around 7 months of age. Moreover, the quality of the infant's attachment relationship is highly stable over the first several years of life and predictive of subsequent emotional development. Infants who develop secure attachments to their mothers in the first year of life are more competent as toddlers in peer interaction, exploration, and play behavior, and are more enthusiastic and persistent in approaching problem-solving tasks. Recent evidence suggests that the higher levels of ego resilience and social competence of securely attached infants persist through 5 years of age.

A secure infant-mother attachment relationship is the outcome of sensitive parenting behavior on the part of the mother. Studies have identified the qualities of sensitive parenting to include the mother's ability to respond to her infant's cues and signals in an appropriate and contingent fashion. Mothers who fail to interpret their infant's behavior and who respond inappropriately are likely to promote the development of an insecure infant attachment. Research has also shown that infants can have multiple and qualitatively different attachments to other significant adults, such as the father or babysitter, although under stress infants tend to prefer their mothers over these other attachment figures.

There has been very little research on the development of infant attachments to adolescent mothers. Furthermore, since most unmarried teenagers remain with their own families after the birth of the baby, this extended family structure offers an unusual context for infant social development, i.e., the emergence of attachments to multiple figures: the teen mother, the teen father, the grandmother, or other kin. OAPP requests applications for research which will answer one or more of the following questions:

1. What are the qualities of teenage parenting behavior? Are teenage mothers less likely to provide sensitive, appropriate parenting than older mothers?

2. Are infants born to adolescents less likely to be securely attached to their mothers? Do the rates of secure infant-mother attachments differ for various subgroups of adolescents (e.g., very young adolescents, adolescents living alone)?

3. What is the hierarchy of attachment relationships that the infant forms to his or her mother, father, grandmother, or other significant individuals? To whom does the infant turn when distressed? Whom does the infant prefer?

4. What role does the grandmother play influencing the parenting behavior of the teen mother (e.g., guiding, teaching, supervising, collaborating with the young mother)? What are the consequences of this for the infant?

5. What are the other major factors which affect the parenting behavior of the teen mother (e.g, father, grandfather, peers, parenting instructions, support groups, economic status)? What are the consequences for the infant?

6. What are the positive and negative effects on subsequent social development of the infant's formation of multiple attachments with the teen mother's family?

C. The Impact of Pregency and/or Childrearing on the Psychological Development of the Adolescent Mother

Research on the consequences of the mother of early pregnancy and childbearing has focused primarily on broad sociological or demographic outcomes. For example, studies have shown that women who bear children in their teens are more likely to have higher rates of subsequent fertility and materital dissolution, and lower levels of educational and employment attainment. Much less attention has been devoted to the psychological dimensions of teenage pregnancy and childbearing.

Adolescent motherhood may be viewed as a period when two developmental crises overlap, namely the transition from childhood to adulthood and the entry into parenthood. In our society, optimal development involves the transition to parenthood after the period of adolescence has been resolved. The young adult has achieved her own identity, emotional independence from her family, and the cognitive ability to think abstractly, reason logically, and plan for the future. The young adult is thus better prepared for the

psychological demands of motherhood, which include a redefinition of her relationship to her parents, the internalization of an identity as a mother, the development to empathy for her child, the ability to see the child's needs and perspective as separate from her own, and the reliving and reworking of her own childhood experiences.

Although there have been a number of theoretical proposals concerning the psychological impact of the intersection of adolsecence and parenthood, little empirical work exists on these subjects. Therefore, OAPP requests applications for research which will answer one or more of the following questions:

1. How does the adolescent girl integrate her identities as a child and as a parent, and what factors promote this integration? Are there differences between the very young adolescent mothers and older adolescent mothers?

2. How does teenage parenthood affect the adolescent's relationship to her parents? Are there typologies which might characterize the various relationships that are possible? Are some relationships more adaptive for the adolescent than others? What qualities of the adolescent herself as well as her parents contribute to an adaptive relationship?

3. How do the adolescent's developing cognitive ability and unresolved narcissism affect her capability to parent responsively?

4. What is the impact, both positive and negative, of pregnancy and childbearing, on the adolescent's sense of self-esteem? Is there a developmental progression, i.e. higher self-esteem during pregnancy, lower self-esteem as the infant becomes more demanding?

Proposals addressing these questions should be mindful of existing research that suggests that certain aspects of the adolescent's psychological development, i.e. low self-esteem, and poor interpersonal and familial relations, may have led to the adolescent pregnancy. Therefore, a preferred research design would be a prospective longitudinal study where a group of adolescent girls are assessed and then followed throughout a period of 2–3 years, so that pre-existing data could be obtained before a subgroup became pregnant. A second possibility would be the clear understanding that the data obtained from pregnant adolescents would be used as baseline information for within subject comparison over time, but not gross generalizations to the whole adolescent population.

III. Research Scope

This RFA encourages all applicable scholarly approaches to the study of the research questions it poses. Applications should include a well-organized statement of the problem to be addressed, the research design, the conceptual framework within which the design has been developed, the methodology to be employed, the evidence upon which the analysis will rely, and the manner in which the evidence will be analyzed. Proposals should indicate how data and analysis from such activities will advance scientific understanding and yield relevant information to the applied setting. It is the goal of the program to develop a relevant research base in all research areas and sub-areas described in the RFA. An attempt will be made to fund proposals so that the program goal is achieved.

The program is committed to funding only proposals that excel in meeting the review criteria enumerated in Section VI below and that show substantial promise of producing results that will have relevance for policy-makers and service providers. The program will fund only proposals for research using data exclusively from samples or populations in the United States.

In order to make data available to other interested scholars, policymakers, and service providers as quickly as possible, copies of data sets and accompanying documentation produced with funds granted through this RFA will be deposited with a public use data archive, such as the Data Archive on Adolescent Pregnancy and Pregnancy Prevention or the Inter-University Consortium for Political and Social Research; alternatively, data sets may be deposited with OAPP. Data sets will be deposited only after: (1) Appropriate deletions have been made to protect the personal privacy of subjects, and (2) the grantee has had a reasonable length of time, not to exceed 18 months after the final budget period, to complete the study and report its results. The cost of making such data available should be budgeted in the proposal and applicants should plan to make the data sets available to a public use data archive or OAPP.

IV. Mechanism of Support

This program will award research grants under Title XX of the Public Health Service Act (Adolescent Family Life Research Grants, 42 U.S.C. 3002, Catalog of Federal Domestic Assistance number 13.111. Applicable regulations are found at 42 CFR Parts 52 and 52h.) It is anticipated that direct costs for the projects funded will range between $10,000 and $100,000. All applications for funds in that range will be evaluated for scientific merit according to the same standards and criteria. OAPP hopes to make some awards to new investigators in the range of $10–20,000, and some awards to established investigators in the range of $20–100,000.

Under Title XX, no project may incure direct costs beyond $100,000 per year unless OAPP obtains a special waiver from the Secretary of Health and Human Services, and only if the Secretary determines that: "(A) Exceptional circumstances warrant such waiver and that the project will have national impact; or (B) additional amounts are necessary for the direct costs of conducting limited demonstration projects for the provision of necessary services in order to provide data for research carried out under this title." Sec. 2008(a)(3).

By statute, the total project period of the proposal must not exceed 5 years and normally no project will receive an initial award for more than a year. Applicants should specify whether cost sharing will be accomplished through Institutional Agreement or negotiated prior to award. Grant policies of the Public Health Service will prevail. Approximately $500,000 is available for grants under this announcement and it is anticipated that between 6 and 11 grants will be awarded.

V. Eligibility

This competition is open to any corporation, public or private institution or agency, including corporations operated for profit. Salary information for all project personnel should be included in the original application but may be omitted from copies. Confidential business information in applications will be protected from disclosure under provisions of the Freedom of Information Act.

VI. Review Criteria

The review of applications is governed by Title 42 CFR Part 52, Review criteria include:

1. Scientific merit and significance of the project;

2. Competency of proposed staff in relation to the type of research involved;

3. Feasibility of the project;

4. Reasonableness of proposed budget period in relation to the proposed research;

5. Amount of grant funds necessary for completion, and adequacy of applicant's resources available for project;

6. Adequacy of methodology proposed to carry out the research; and

7. The adequacy of the proposed means for protecting against adverse effects upon humans, animals, or the

environment, where an application involves activities which which could have such effects.

VII. Method of Applying

Applications should be submitted on Form PHS–398. This form may be obtained from university offices of sponsored research or from the Grants Management Office, OAPP, Room 1351, 330 Independence Ave., SW., Washington, D.C. 20201. The instructions in the application kit should be followed. No review is required under E.O. 12372, nor by a Health Planning Agency, unless the proposed research would establish a demonstration project for purposes of collecting data.

Applications must be received before 4:30 p.m. Eastern time, on April 15, 1985. Applications should be sent or delivered to: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Type across the mailing envelope and the top of the application face page: Submitted in response to the RFA Entitled "Adolescent Family Life."

Dated: December 17, 1984.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 84–33209 Filed 12–20–84; 8:45 am]

BILLING CODE 4160–17–M

Office of the Assistant Secretary for Health

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of establishment of a new Privacy Act system of records 09–25–0155, "Congressional Biographies, HHS/NIH/OPPE."

SUMMARY: In accordance with the requirements of Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new Privacy Act system of records 09–25–0155, "Congressional Biographies, HHS/NIH/OPPE."

The National Institutes of Health (NIH) will use this system of records to brief officials who are asked to testify before committees and subcommittees of the Congress.

PHS invites interested persons to submit comments on the proposed system of records on or before January 22, 1984.

DATES: PHS has sent a Report of New System to the Congress and to the Office of Management and Budget (OMB) on December 13, 1984. The system of records will be effective 60 days from the date submitted to OMB unless PHS receives comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to the NIH Privacy Act Coordinator at the address listed below. Comments received will be available for inspection from 9 a.m. to 3 p.m. in Room 3B11, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20205, or call 301–496–2832. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Office of Program Planning and Evaluation (OPPE) of the NIH proposes to establish a new Privacy Act system of records 09–25–0155, "Congressional Biographies, HHS/NIH/OPPE," which will consist of an automated file of biographical information on members of Congress before whom NIH officials are asked to testify. The Division of Legislative Analysis, OPPE, will use the system to brief these officials before they testify. Maintaining the system of records on an automated file will facilitate access to current information by officials preparing testimony.

OPPE will compile the information recorded in the proposed system entirely from published sources, principally from the *Congressional Record* and the *Congressional Directory*. Because all of the information is in the public domain, creation and maintenance of the system of records will not raise any issues of privacy or confidentiality. Similarly, no routine uses are proposed for this system of records because all of the records are publicly available.

Although information in this system is in the public domain, minimal safeguards will be implemented in order to protect the integrity of the records.

The proposed system of records will not become effective until 60 days after the date it was reported to OMB, as discussed above. However, the following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: December 14, 1984.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–25–0155

SYSTEM NAME:

Congressional Biographies, HHS/NIH/OPPE.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Computer Center, Building 12A, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical sketches; legislative record on health issues; ratings of members by various public interest groups, such as the Americans for Constitutional Action and the Americans for Democratic Action; and summary information on National Institutes of Health (NIH) research grant and contract awards within the member's State or district.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority to make, use, and preserve agency records is provided by 44 U.S.C. 3101.

PURPOSE OF THE SYSTEM:

The system is used to brief NIH officials who are asked to testify before committees and subcommittees of the Congress in order to enhance NIH's ability to anticipate and respond to concerns of members of Congress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic discs.

RETRIEVABILITY:

Records are retrieved by the name of the Senator or Representative, or by the name of the Congressional committee or subcommittee on which they serve.

SAFEGUARDS:

Authorized users: Records are available to legislative liaison contacts in the bureaus, institutes and divisions of NIH.

Physical safeguards: The file is stored in a controlled access facility.

Procedural safeguards: Access to the file is controlled through the use of passwords in order to protect the integrity of the records.

No other safeguards are implemented because all information in this system is in the public domain.

These safeguards are in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained until superseded or obsolete. Superseded or obsolete records are erased.

SYSTEM MANAGER AND ADDRESS:

Chief, Legislative Information and Resources Branch, NIH, Building 1, Room 218, 9000 Rockville Pike, Bethesda, MD 20205.

NOTIFICATION PROCEDURE:

Write to the system manager at the address above. Since all information in this system is in the public domain, there are no special requirements for notification or access.

RECORD ACCESS PROCEDURE:

Same as notification procedure.

CONTESTING RECORD PROCEDURE:

Write to the system manager and reasonably identify the record, specify the information being contested, the corrective action sought, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

The *Congressional Record, Congressional Directory,* and other published sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–33220 Filed 12–20–84; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DES 84–65]

Phoenix Draft Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of draft Environmental Impact Statement (draft EIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, BLM has prepared a draft EIS on the Proposed Wilderness Program for the Phoenix Wilderness Areas, Maricopa, Mohave, Yavapai, Pinal and Pima Counties, Arizona.

The Proposed Action recommends as suitable for inclusion in the National Wilderness Preservation System on WSA (2,065 acres), Baboquivari Peak. This WSA was studied under section 202 of the National Environmental Policy Act of 1969. Five WSAs totaling 52,648 acres are recommended as non-suitable for wilderness designation. The following table lists the WSAs and total suitable and non-suitable acres.

Proposed Action

Wilderness study area		Public land acres		
No.	Name	WSA	Suitable	Unsuitable
2–01A	Mount Wilson	24,821	0	24,821
2–119	Hells Canyon	9,379	0	9,379
2–187	White Canyon	6,968	0	6,968
2–194	Picacho Mountains	6,400	0	6,400
2–202	Coyote Mountains	5,080	0	5,080
2–203A	Baboquivari Peak*	2,065	2,065	0
Total		54,713	2,065	52,648

*This area is being studied for wilderness under section 202 of FLPMA.

Source: Phoenix District Office Files.

There are four additional alternatives analyzed in the draft EIS. They are(1) All Wilderness (6 WSAs, 54,713 acres); (2) Enhanced Wilderness (3 WSAs, 31,966 acres); (3) No Wilderness (No WSAs); and (4) No Action (2 WSAs, 8,465 acres).

SUPPLEMENTARY INFORMATION: BLM invites written comments on the draft EIS to be submitted during the public comment period. The comment period will end March 11, 1985. Comments should be sent to the District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, AZ 85027.

A limited number of draft EIS copies may be obtained upon request to the District Manager at the above address.

Public reading copies may be reviewed at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW, Washington, D.C. 20240. Telephone (202) 343–4705.

Arizona State Office, Bureau of Land Management, 3707 North 7th Street, Phoenix, AZ 85019. Telephone (602) 241–5504.

Phoenix District Office, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, AZ 85027. Telephone (602) 863–4464.

BLM will receive oral and written comments at formal public hearings to be held on January 30, 1985 in Tucson, Arizona at the Tucson Hilton Inn, Rincon Room, 1601 N. Miracle Mile; on February 5, 1985 in Kingman, Arizona at the Kingman City Council Chambers, 310 North 4th; and on February 7, 1985 in Phoenix, Arizona at the Maricopa County Board of Supervisors Auditorium, 205 West Jefferson. All public hearings will be held at 7:00 p.m.

A solicitor from the Department of the Interior will preside over the hearings. Witnesses presenting oral comments should limit their testimony to 10 minutes. Those wanting to testify should send a written request to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, AZ 85027.

BLM will give written and oral comments on the draft EIS equal consideration during preparation of the final EIS.

Dated: December 14, 1984.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 84–33210 Filed 12–20–84; 8:45 am]

BILLING CODE 4310–32–M

Office of Surface Mining Reclamation and Enforcement

[Amended Indian Lands Coal Mining Lease No. 14–20–0252–4088]

Availability of Final Environmental Impact Statement; Proposed Expansion of the Absaloka Mine, Bighorn County, MT

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of final environmental impact statement (OSM–EIS–16).

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM), and the Montana Department of State Lands, are making available a jointly prepared final environmental impact statement (EIS) on the proposed expansion of the Absaloka mine. The EIS has been prepared to assist the Department of the Interior and the

Montana Department of State Lands (DSL) in making a decision on the Westmoreland Resources, Inc. application to surface mine coal 26 miles east of the city of Hardin, Montana in the area known as the Crow Ceded Strip, north of the Crow Reservation.

ADDRESSES: Copies of the final EIS may be obtained from Allen D. Klein, Administrator, Attn: Charles Albrecht, Office of Surface Mining, Western Technical Center, Second Floor, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202, or from Kit Walther, Montana Department of State Lands, Environmental Analysis Bureau, Capitol Station, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, Chief, Environmental Analysis Branch (telephone: 303–844–5421) at the Denver, Colorado, location given under "ADDRESSES."

SUPPLEMENTARY INFORMATION: Westmoreland Resources, Inc. began construction of mine facilities at the Absaloka mine in late 1972 and gained approval to mine 2,630 acres of land located west of the application area in 1974. The company is now seeking approval to mine 65 million additional tons of coal over a 13 year period at a rate of approximately 5 million tons per year. The proposed expansion would add 629 acres of private surface to the permitted area in sections 24 and 25, T1N, R37E and sections 19 and 30, T1N, R38E, of which 573 acres would be disturbed.

The EIS analyzes both the 13 year operation proposed for the application area and the company's long-range plans for the next 34 years. The long-range plans would eventually add another 2,096 acres to the Absaloka mine, bringing the total mine area to approximately 5,355 acres. Five alternatives that treat the available range of decisions are evaluated in the EIS. These include: approve the application as proposed, reject the application, selectively reject approval, approve mining with special conditions, and no action. OSM and DSL have identified "approve mining with special conditions" as the preferred alternative.

OSM and DSL jointly analyzed the impacts of the proposal and its alternatives with assistance from the Bureau of Indian Affairs. The final EIS contains the full revised text of the analysis, the written comments submitted to OSM and DSL regarding the Absaloka draft EIS, and the responses to those comments considered substantive in nature.

Dated: December 17, 1984.

Brent Wahlquist,

Assistant Director, Technical Services and Research.

[FR Doc. 84–32570 Filed 12–20–84; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–3 (Sub-40)]

Missouri Pacific Railroad Co.; Abandonment in Cloud and Republic Counties, KS, and Nuckolls, Webster, and Adams Counties, NE; Findings

The Commission has found that the public convenience and necessity permit Missouri Pacific Railroad Company to abandon its 84.4 mile rail line known as the Hastings Subdivision extending from milepost 490.3 near Hastings Junction, KS, to milepost 574.7 near Muriel, NE, in Cloud and Republic Counties, KS, and Adams, Nuckolls, and Webster Counties, NE. A certificate will be issued authorizing this abandonment unless within 15 days after publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

James H. Bayne,

Secretary.

[FR Doc. 84–33200 Filed 12–20–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30570]

Port Terminal Railroad Association; Exemption Modification of Operating Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 11343 certain modifications of a joint operating agreement under which members of the Port Terminal Railroad Association (PTRA) use publicly owned railroad facilities in and near Houston, TX, subject to employee protective conditions.

DATES: This exemption is effective on January 21, 1985. Petitions to stay must be filed by January 1, 1985. Petitions for reconsideration must be filed by January 10, 1985.

ADDRESSES: Send pleading referring to Finance Docket No. 30570 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Gordon A. Holloway, 800 Capital Bank Plaza, Houston, TX 77002, (713) 652–8700.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InforSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: December 11, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84–33201 Filed 12–20–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–243]

The Virginia Blue Ridge Railway Co.; Abandonment in Nelson County, VA; Exemption

The Virginia Blue Ridge Railway Company (VBR) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments*, as modified by *Exemption of Out of Service Rail Lines*, 1 I.C.C. 2d.55, decided April 16, 1984. VBR will abandon its entire line of railroad, extending from Tye River, VA, to Buffalo Mines, VA, a distance of approximately 9.99 miles, in Nelson County, VA.

VBR has certified: (1) That no local traffic has moved over the line for at least 2 years, (2) the line does not handle overhead traffic, and (3) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service on the line either is pending with the

Commission or has been decided in favor of the complainant within the 2-year period preceding this notice. The Virginia State Corporation Commission has been notified. See *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on January 20, 1985 (unless stayed pending reconsideration), however, the abandonment may not be consummated before January 22, 1985.[1] Petitions to stay the effective date of the exemption must be filed by December 31, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by January 10, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to applicant's representative: Mr. F.L. Turner, Sr., Controller, Virginia Blue Ridge Railway, P.O. Box 413, Amherst, VA 24521.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use condition.

Decided: December 13, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-33202 Filed 12-20-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance, Burlington Industries, et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 10, 1984–December 14, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed imporantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations.

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–15, 410; Burlington Industries, Textured Woven Div., Bristol, TN

TA–W–15, 422; Burlington Industries, Textured Woven Div., Mountain City, TN

TA–W–15, 507; Franklin Fashions, Inc., East Orange, NJ

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–15, 474; Duolite Imternational, Inc., Redwood City, CA

TA–W–15, 359; Zenith Radio Corp., Glenview, IL

Affirmative Determinations

TA–W–15, 466; Mayr Brothers Logging Co., Inc., Hoquiam, WA

A certification was issued covering all workers separated on or after April 1, 1984.

TA–W–15, 354; Coronet Manufacturing Co., Union City, NJ

A certification ws issued covering all workers separated on or after April 16, 1984.

TA–W–15, 479; National Dress Co., Belleville, NJ

A certification was issued covering all workers separated on or after September 24, 1983 and before August 1, 1984.

TA–W–15, 480; Phelps Dodge Corp., New Cornelia Branch, Ajo, AZ

A certification was issued covering all workers separated on or after July 1, 1984.

TA–W–15, 433; Antietam Footwear, Inc., Hagerstown, MD

A certification was issued covering all workers separated on or after June 1, 1984 and before October 1, 1984.

TA–W–15, 467; Pathfinder Mines Corp., Lucky McMine and Mill, Riverton, WY

A certification was issued covering all workers-separated on or after January 1, 1984.

TA–W–15, 482; Seneca Foundry, Inc., Webster City, IA

A certification was issued covering all workers separated on or after August 1, 1984 and before September 30, 1984.

I hereby certify that the aforementioned determinations were issued during the period December 10, 1984–December 14, 1984. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 18, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-33274 Filed 12-20-84; 8:45 am]

BILLING CODE 4510-30-M

Investigation, Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Anamax Mining Co., et at.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such

[1] Applicant's notice must be filed at least 50 days before the abandonment is to be consummated. See 49 CFR 1152.50(d)(2).

request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1984.

Interested person are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 17th day of December 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco Carbon (workers)	Niagara Falls, NY	11/16/84	11/11/84	TA-W-15,614	Carbon electrodes.
American Brush Co., Inc. (IUE)	Brockton, MA	11/26/84	11/20/84	TA-W-15,615	Paint brushes & rollers.
Belmont Manufacturing (ILGWU)	Barnsville, OH	12/4/84	11/30/84	TA-W-15,616	Women's sportswear.
E.I. duPont de Nemours & Co., Inc. (company)	East Chicago IL	11/29/84	11/15/84	TA-W-15,617	Sulfamic acid and sulfuric acid.
Hallitex Clothing Co. (workers)	Halls, TN	11/26/84	11/13/84	TA-W-15,618	Men's & ladies' sport suits & coats.
Johnson Camping, Inc. (workers)	Walton, NY	12/10/84	12/3/84	TA-W-15,619	Camping tents.
Nannette Manufacturing Co. (UGWA)	Elkton, MD	11/15/84	11/7/84	TA-W-15,620	Children's clothing.
Riegel Textile Corp. (company)	Ware Shoals, SC	12/3/84	11/26/84	TA-W-15,621	Diapers, soft filled sheeting, terry towels, tablecloth & napkins, etc.
U.S. Steel Corp., Tin Finishing Dept. (workers)	Pittsburg, CA	11/14/84	11/5/84	TA-W-15,622	Tin coils produced & stored.
Westmoreland Glass Co. (Amer. Flint Glass Wkrs)	Grapeville, PA	12/3/84	11/30/84	TA-W-15,623	Handmade glassware.
West Virginia Garment (ILGWU)	Wheeling, WV	12/4/84	11/28/84	TA-W-15,624	Women's jackets.
Airco Welding Products, Filler-metals Plant (USWA)	Sparrows Point, MD	11/29/84	11/28/84	TA-W-15,625	Flux core welding wire.
Anamax Mining Co. (workers)	Sahuarita, AZ	12/10/84	12/4/84	TA-W-15,626	Copper mining.
Encore Shoe Corp. (workers)	Sanford, ME	11/21/84	11/14/84	TA-W-15,627	Women's & mens' shoes & boots.
Gary Lilly of Florida (workers)	Miami, FL	12/10/84	11/29/84	TA-W-15,628	Women's sportwear.
Imperial Reading Corp. (USWA)	Lafollette, TN	12/10/84	12/3/84	TA-W-15,629	Sportswear.
Mode O'Day Co. (ILGWU)	Salt Lake City, UT	12/7/84	12/4/84	TA-W-15,630	Women's dresses and sportswear.
Mode O'Day Co. (ILGWU)	San Bernardino, CA	12/7/84	12/4/84	TA-W-15,631	Women's dresses and sportswear.
Mode O'Day Co. (ILGWU)	Hastings, NE	12/7/84	12/4/84	TA-W-15,632	Women's dresses and sportswear.
Mode O'Day Co. (ILGWU)	Los Angeles, CA	12/7/84	12/4/84	TA-W-15,633	Women's dresses and sportswear.
Mode O'Day Co. (ILGWU)	Burbank, CA	12/7/84	12/4/84	TA-W-15,634	Women's dresses and sportswear.
New Seaboard Industries (workers)	Seaboard, NC	11/29/84	11/25/84	TA-W-15,635	Maternity clothing.
Saginaw Shingle Co. (workers)	Aberdeen, WA	11/16/84	11/1/84	TA-W-15,636	Cedar shakes & shingles.
Tennessee Handbag, Inc. (workers)	Dandridge, TN	12/6/84	11/26/84	TA-W-15,637	Women's handbags.
AT&T Technologies, Baltimore Works (workers)	Baltimore, MD	11/16/84	11/10/84	TA-W-15,638	Telephone cords.
Bomag (U.S.A.), AMCA International (UAW)	Springfield, OH	11/14/84	11/10/84	TA-W-15,639	Soil stabilizers, static and vibratory rollers.
Georgia Boot, Inc. (company)	Centerville, TN	12/10/84	12/3/84	TA-W-15,640	Outdoor utility footwear & few western boots.
Hanimex Manufacturing, Inc. (Allied Industrial Wkrs)	Jackson, MI	12/3/84	11/24/84	TA-W-15,641	Slide projectors & slide viewers.
New Carolina Industries (workers)	Weldon, NC	11/13/84	11/9/84	TA-W-15,642	Maternity clothing.
Ovation Instruments Co. (workers).	Marion, NC	11/27/84	11/20/84	TA-W-15,643	Guitars.
PBI Industries (USWA)	Williamsport, PA	11/20/84	11/16/84	TA-W-15,644	Steel fabrication.
Power Piping Co. (workers)	Pittsburgh, PA	11/8/84	10/31/84	TA-W-15,645	Piping & pipe supports.

[FR Doc. 84-33275 Filed 12-20-84; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Appointment of Members

Notice is hereby given that appointments have been made to fill fifteen (15) vacancies on the Advisory Committee on Construction Safety and Health. The vacancies were created by the expiration of the terms of fifteen members on June 30, 1984. The new membership of the Committee and the categories represented are as follows:

Employee

Mr. Joe A. Adam
Mr. Robert E.P. Cooney
Mr. Joseph L. Durst, Jr.
Mr. Jim Lapping
Mr. George E. Smith

Employer

Mr. Leonard E. Dodson
Mr. V. Sherwood Kelly
Mr. James Pakenham
Mr. Larry L. Swanda
Mr. David L. White

State

Mr. Larry Etchechury
Mr. Allen Meier

Federal

Dr. James Oppold

Public

Dr. Jack L. Mickle
Mr. H. Edgar Lore

Each of these members has been appointed for a term which will end on June 30, 1986.

The Advisory Committee on Construction Safety and Health was established under section 107 of the Contract Work Hours and Safety Standards Act and section 7(b) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor on matters pertaining to construction safety and health.

The members were selected on the basis of their experience and competence in the field of occupational safety and health in the construction industry.

For additional information contact: Kenneth Hunt, Committee Management Officer, Division of Consumer Affairs, Advisory Committee on Construction Safety and Health, Room N-3637, 3rd Street, and Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-8026.

Signed at Washington, D.C., this 18th day of December 1984.

Robert A Rowland,

Assistant Secretary

[FR Doc. 84-33273 Filed 12-20-84; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-177; Exemption Application No. L-3086, et al.]

Grant of Individual Exemptions; Carpenters Apprenticeship and Training Fund for Northern California, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individaul exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notice set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Carpenters Apprenticeship and Training Fund for Northern California (the Apprenticeship Fund) and Carpenters Pension Trust Fund for Northern California (the Pension Fund), (Collectively, the Funds) Located in San Francisco, California

[Prohibited Transaction Exemption 84-177; Exemption Application Nos. L-3086 and D-3110, respectively]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to:

(i) The extension of credit by the Pension Fund to the Apprenticeship Fund, created through the purchase by the Apprenticeship Fund from Pleasanton Partners III (the Partnership) of a building (the Training Center) under which purchase the Apprenticeship Fund will assume the Partnership's debt obligation pursuant to a loan (the Loan) to be made by the Pension Fund to the Partnership;

(2) The subordination by the Apprenticeship Fund of its interest in a parcel of land (the Land) to the Pension Fund in order to induce the Pension Fund to make the Loan;

(3) The lease of office space (the Lease) in the Training Center by the Apprenticeship Fund to South County Community College District (the College); and

(4) The assignment by the Apprenticeship Fund to the Pension Fund of its interest in the Lease, provided that the terms and conditions of the above transactions are negotiated at arm's-length and are at least as favorable to each Fund as the terms and conditions each could obtain from an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to notice of proposed exemption published on October 12, 1984 at 49 FR 40117.

For Further Information Contact: Mrs. Mary Jo Fite of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Wake Pathology Associates, P.A. Pension Plan and Trust (Wake Pension Plan); Wake Pathology Associates, P.A. Profit Sharing Plan and Trust (Wake Profit Sharing Plan); D.E. Scarborough, M.D., P.A. Pension Plan and Trust (Scarborough Pension Plan); and D.E. Scarborough, M.D., P.A. Profit Sharing Plan and Trust (Scarborough Profit Sharing Plan) Located in Raleigh, North Carolina

[Prohibited Transaction Exemption 84-178; Exemption Application No. D-4767]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchase of 22½ percent interest in a ten acre parcel of real property (Parcel One) by the Wake Pension Plan and the Wake Profit Sharing Plan for $24,750 each from Dr. D.E. Scarborough; (2) the purchase by the Scarborough Profit Sharing Plan of a 55 percent interest in Parcel One from Dr. Scarborough for $60,500; and (3) the purchase by the Scarborough Pension Plan of a 30 percent interest in a 15 acre parcel of real property (Parcel Two) from Dr. Scarborough for $47,250, provided the purchase prices do not exceed the fair market value of the interests in Parcels One and Two on the date of the acquisitions.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 2, 1984 at 49 FR 44157.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Clinical Associates in Internal Medicine, Ltd. Profit Sharing Plan and Trust (the Plan) Located in Phoenix, Arizona

[Prohibited Transaction Exemption 84-179; Exemption Application No. D-5179]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) the Code, shall not apply to the sale of certain real property by the individual account (the Account) in the Plan to Dr. David C. Rabinowitz, a party in interest with respect to the Plan provided that the terms and conditions of the sale are as favorable to the Plan as those

obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 9, 1984 at 49 FR 44822.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The RGMB Corp. Pension Plan and the RGMB Corp. Profit Sharing Plan (the Plans) Located in Beverly Hills, California

[Prohibited Transaction Exemption 84–180; Exemption Application Nos. D–5245 and D–5246]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of seven years to: (1) The purchase by the Plans from RGMB Corp. (the Employer), the employer of participants under the Plan, of the right to receive all monthly payments due under some of the Employer's current and future automobile leases (the Leases), provided that the terms of such assignments and the Leases are at least as favorable to the Plans as arm's-length transactions between unrelated parties; and (2) the Employer's guarantee of the obligations of the lessees under the leases in the event of a default by such lessees or of early termination of any Lease.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 12, 1984, at 49 FR 40128.

Temporary Nature of Exemption

This exemption is temporary and will expire seven years after today with respect to the purchase of interests in any Lease. The exemption with respect to the Employer's quaranty of the obligations of the lessees under the Leases, will expire upon the termination of all Leases in which the Plans purchased interests within seven years of today. Should the applicant wish to continue assigning interests in Leases to the Plans beyond the seven year period, the applicant may request another exemption.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Dynalectron Corporation Pension Trust (the Plan) Located in McLean, Virginia

[Prohibited Transaction Exemption 84–18; Exemption Application No. D–5352]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective July 1, 1984, to the lease of an improved parcel of real property by the Plan to Dynalectron Corporation, the sponsor of the Plan, provided that the lease is on terms at least as favorable to the Plan as those obtainable by the Plan in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 26, 1984 at 49 FR 43130.

Effective Date: This exemption is effective July 1, 1984.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Employees' Retirement Plan of the Bulova Watch Company, Inc. (the plan) Located in Flushing, New York

[Prohibited Transaction Exemption 84–182; Exemption Application No. D–5458]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation beyond June 30, 1984 of a lease of certain real property (the Property) by the Plan to Bulova Systems and Instruments Corporation (BSIC), provided that such lease is on terms and conditions at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party, and the possible cash sale of the Property by the Plan to BSIC or the Bulova Watch Company, Inc. (Bulova), pursuant to the terms of the lease, provided that the Plan receives no less than fair market value for the Property at the time of any subsequent sale to BSIC or Bulova.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 26, 1984 at 49 FR 43132.

Effective date: This exemption is effective July 1, 1984.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 18th day of December 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84–33278 Filed 12–20–84; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendation Responses

Responses From

Highway—*Federal Highway Administration: Nov. 1: H–81–20:* Has analyzed the problem of vehicle-tree collisions. Several States have implemented programs for the tree problem and for improved roadway delineation and markings. It is difficult to justify a program for reducing tree accidents as a singular problem. A program must insure that trees are addressed along with other roadside obstacles.

National Highway Traffic Safety Administration: Nov. 2: H–83–44: A survey of almost 1,000 fleets by the National School Transportation Association revealed that 49 percent operated fewer than 10 buses. To institute quality contol procedures for these small fleets would quickly exhaust the limited resources of most States. *H–83–45:* Will review the literature that pertains to school bus mechanic qualifications and skill areas needed for certification and will disseminate the appropriate information to State and local governments. The majority of small fleet operators could not afford to hire a master-mechanic. The diversity of the school bus fleet in the United States would be a major complication for a practical certification program. Because of the complexity of this problem, and the lack of Congressional action, NHTSA believes that it cannot go beyond publishing qualifications for school bus mechanics and identifying available training centers. Believes that a reminder to the States to institute and enforce procedures to prevent school activity groups from organizing, beginning, or continuing trips in mechanically unsafe vehicles would encourage them to give the proper attention to this safety area. The placement of additional fire extinguishers outside the bus driver's compartment has led to increased theft and vandalism. The benefits of placing a second fire extinguisher in the rear of the school bus are so few as to make this requirement unwarranted.

State of California, Department of California Highway Patrol: Nov. 14: H–83–67: Legislature recently budgeted $3 million for refurbishing or replacing school buses.

State of Florida: Oct. 15: H–83–46: The Florida Association for Pupil Transportation Inspection Committee has been formed to develop statewide inspection criteria and other recommendations to assist maintenance personnel in improving and evaluating quality control of school bus servicing and inspection. Several districts offer incentives, and State personnel offer assistance to mechanics to encourage participation in the National Institute for Automotive Service Excellence voluntary mechanic certification program. Training programs in school bus inspection and vehicle systems and component repairs to upgrade job qualifications of mechanics are periodically offered to counties. The transportation component of a local school district Program Compliance and Performance Audit, which is required every five years, includes a thorough inspection of a sample of the district's school buses and other procedures to evaluate the quality of the district's school bus maintenance programs. *H–83–47:* Is considering adding a requirement that any bus to be taken on an activity or field trip first be safety inspected by a qualified mechanic immediately prior to a trip. *H–83–48:* Is reviewing the recommendation to place fire extinguishers at the rear of a school bus. School bus drivers are required to instruct students in safe riding practices as well as supervise emergency evacuation drills at least twice each school year.

State of Kansas, Department of Transportation: Nov. 6: H–83–51: Forwarded a copy of a report by the Kansas University Medical Center on the effectiveness of seat restraint programs involving child safety seats.

State of Kentucky: Sep. 5: H–83–51: University of Kentucky issued a research report on pre-legislation child passenger safety seat usage in Kentucky in September 1982, which addresses usage and identifies improper usage by specific brand. One year later, a research report was issued that identified usage rates after enactment of Kentucky's child passenger safety seat legislation. In 1983, the Kentucky State Police using highway safety funds initiated a "Click" campaign to increase both child passenger safety seat usage and safety belt usage.

State of Maryland: Sep. 20: H–84–8: Proposed construction standards for vehicles used to transport handicapped children, which were a part of the Maryland Board of Education Rules and Regulations, are now being incorporated in the school vehicle regulations governed by the Department of Transportation, Motor Vehicle Administration.

Massachusetts School Union 37 (North Dighton, Mass.): Oct. 19: H–84–74: Has established a procedure requiring the private contractor who operates the pupil transportation system to submit information on driver licenses for the school administration's files.

Commonwealth of Massachusetts, Executive Office of Public Safety: Oct. 17: H–83–51: Forwarded copies of materials used to promote child safety seat use in the State.

State of Michigan, Department of Transportation: Oct. 2: H–84–8: Federal Motor Vehicle Safety Standard 221 is not presently a part of Michigan's small bus specification for public transit. Believes the Safety Board should solicit direct from the bus manufacturers regarding the application of this standard to public transit buses.

State of Minnesota, Department of Public Safety: Oct. 26: H–83–51: Distributes literature relating to misuse of child safety seats. Conducts surveys of occupant restraint usage rates.

State of New Mexico, Department of Education: Sep. 5: H–83–39 through –41: Requires that all school buses be equipped with a lap belt for the driver and that the driver wear it. Requires that any small van be equipped with seat belts for the occupants who are to wear them. All school-related vehicles, both to and from school and for activity trips, comply with standards for school buses. Until further research and testing is done to document that pupils will be safer by the installation of seat belts, will not require them. Previous attempts at regulating "youth transportation non-related with school activities" have not been successful.

State of New York, Department of Transportation: Oct. 3: H–84–5: Will continue to submit information to the organizations who are receiving vehicles about the type of vehicles and safety options available. Vehicles meeting the School Bus Body Joint Strength portion of the Federal Motor Vehicle Safety Standard 221 will be provided beginning with the bid solicitations currently being made. *H–84–6:* Initiated a new inspection procedure whereby every vehicle acquired for special-purpose use will be inspected upon delivery to insure that all emergency exits are properly labeled both on the interior and exterior and that these exists are readily accessible. *H–84–7:* Will suggest to organizations operating vehicles carrying mentally retarded and physically handicapped persons that such identification be included on the vehicle so that motorist and rescue personnel will be alerted to the fact that passengers may have mobility and other impairments and may need assistance in evacuating the vehicle in an emergency situation. *H–84–8:* Will purchase buses meeting the School Bus Body Joint

Strength portion of the Federal Motor Vehicle Safety Standard 221. Does not feel that "school buses" are appropriate for elderly and/or handicapped transportation service.

State of Wisconsin: Oct. 11: H–83–39 through –41: Highway Safety Advisory Council will review the recommendation to require occupant restraints for each bus passenger.

Collier-Keyworth Company: Sep. 26: H–83–60 and –61: Forwarded samples of the routing labels being placed on its Roundtripper Child Restraint.

Railroad—*Chicago & Illinois Midland Railway Company: Dec. 10: R–84–20:* Does not have any high-strenght alloy steel rail installed. Requires that rail for main track be cut only with rail saw or track chisel, except in case of emergency.

Green Bay and Western Railroad Company: Dec. 10: R–84–20: Does not have any high-strength chrome-vanadium alloy rails in track. Rules prohibit torch cutting of rails and bolt holes except in an emergency.

NJ TRANSIT Rail Operations: Dec. 11: R–83–44 and –45: Currently maintains a regular system of monitoring its employees daily by all first-line operating supervisors at the on-board crew's point of origin. Supervisors, road foremen-engines, trainmasters, and rules examiners perform operational safety checks regularly. Has implemented a major educational and informational campaign for its Employee Assistance Program for alcohol and drug abusers.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

December 17, 1984.

[FR Doc. 84–33199 Filed 12–20–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Document Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: Request for Access Authorization.

3. The form number, if applicable: NRC Form 237.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Personnel of NRC contractors, subcontractors, licensees, and individuals who are not applicants for employment with NRC.

6. An extimate of the number of responses: 790.

7. An estimate of the number of hours needed to complete the requirement or request: 158.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC Form 237 is to be used by personnel of NRC contractors, subcontractors, licensees or individuals not seeking employment with the NRC in order to obtain access to special nuclear material or classified information. The submission of access authorizations is in conformance with the NRC Directives and 10 CFR Parts 11 and 25.

ADDRESS: Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7430. NRC Clearance Officer is R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland this 17th day of December 1984.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–33232 Filed 12–20–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a combined meeting on January 8, 1985, Room 1167, 1717 H Street, NW, Washington, DC.

The meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, January 8, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the redirected DOE programs for LMFBR and HTGR development as well as the current status of NRC research programs on advanced reactors.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, it consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Department of Energy, the NRC Staff, their respective consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 17, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84–33230 Filed 12–20–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Class 9 Accidents; Meeting

The ACRS Subcommittee on Class 9 Accidents will hold a meeting on

January 8, 1985, Room 1046, 1717 H Street, NW, Washington, D.C.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, January 8, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will discuss with the NRC Staff the severe accident research program as described in their latest supplement to NUREG–0900.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their respective consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Alan B. Wang (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 17, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84–33228 Filed 12–20–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on January 9, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

This meeting will address recent events at operating nuclear power plants. The incidents to be explored include those noted below, but may also include others not as yet determined. Should these events involve proprietary information, safeguards information, or information submitted in confidence by a foreign government it will be necessary to close that portion of the meeting to public attendance. However, to the extent practical, this meeting will be open to public attendance and any closed sessions will be held so as to minimize inconvenience to members of the public.

The agenda for subject meeting shall be as follows:

Wednesday, January 9, 1985—1:00 p.m. until the conclusion of business

The Subcommittee will discuss recent plant operating experience (including McGuire upper head injection level instrumentation installation error of October 31, 1984, and Catawba's loose breech guide screws in the control rod drive system).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, Subcommittee consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EST. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 17, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84–33231 Filed 12–20–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Quality and Quality Assurance During Design and Construction; Meeting

The ACRS Subcommittee on Quality and Quality Assurance During Design and Construction will hold a meeting on January 3, 1985, Room 1167 at 1717 H Street, NW., Washington, DC.

Portions of this meeting dealing with the proposed NRC Research budget for FY 1986 will be closed. Such discussions, if held in public session, might result in the premature disclosure of information which would in turn frustrate the Commission's ability to implement the affected programs effectively. However, to the extent practical, this meeting will be open to public attendance and any closed sessions will be held so as to minimize inconvencience to members of the public.

The agenda for subject meeting will be as follows:

Thrusday, January 3, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will review and discuss the following items: (1) Regulatory Guide 1.28, "Quality Assurance Program Requirements (Design and Construction)," for final approval; (2) the Quality Assurance Program Plan; (3) aspects of the Quality Assurance Branch research program for input to the ACRS Report to Congress; and (4) NRC/IE's Integrated Design Inspection Program and the Integrated Design Verification Program.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the

Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff members as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee members will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other invited persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. EST. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated December 17, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84–33229 Filed 12–20–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–289]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Amendment to Facility Operating License; Metropolitan Edison Co. et al.

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR–50 issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (TMI–1 or the facility) located in Dauphin County, Pennsylvania.

Environmental Assessment

Identification of and Need for Proposed Action: The proposed amendment would revise the Technical Specifications to recognize and approve for plant operation the steam generator tube kinetic expansion repair technique as an alternative to plugging defective tubes and would permit return to operation of the repaired steam generators, pursuant to the Initial Decision of the Atomic Safety and Licensing Board dated October 31, 1984.

By letter of May 9, 1983, the licensees requested a change in Technical Specification (TS) 4.19 which would permit operation of TMI–1 after repair of the steam generators by any method other than plugging, provided that the repair method was approved by the NRC. It further requested approval of the kinetic expansion process to permit both a non-nuclear heatup of the plant using pump heat for pre-critical testing and subsequent operation using the repaired steam generators.

Amendment No. 86, issued on August 25, 1983, addressed a portion of the request of May 9, 1983, by modifying TS 4.19 to include only the kinetic expansion repair process as an alternative to plugging defective tubes, only for the period of pre-critical steam generator hot functional testing, and permitted such testing. Similarly, Amendment No. 91, issued on April 9, 1984, further modified TS 4.19 to cover the total period of pre-critical (non-nuclear) hot functional testing of the plant.

In response to the **Federal Register** Notice of May 31, 1983, a hearing was requested on this matter. Such hearing was held on July 16–18, 1984, and resulted in the aforementioned Initial Decision.

The proposed amendment further modifies TS 4.19 by removing restrictions as to the period of effectiveness of the acceptability of the kinetic expansion repair process as an alternative to plugging defective tubes. This amendment, subject to certain license conditions, would permit the return of the steam generators to operation, in accordance with the October 31, 1984, Initial Decision and is needed in order to permit operation of the facility with the repaired steam generators.

Environmental Impacts of the Proposed Action: The proposed action would permit plant operation with steam generators repaired to the original licensing basis by the kinetic expansion process. There will be no change in net power level. Expected gaseous releases from the condenser air ejector calculated by the licensees have been compared with the NRC staff's estimate of such releases using values of NUREG–0017, "Calculation of Releases of Radioactive Materials in Gaseous and Liquid Effluents from PWR (PWR–GALE Code)", and were found to be reasonable. Liquid or other gaseous releases are not expected to change significantly. Public radiation exposure from plant operation was estimated by comparing estimated radioactive effluents with average releases and dose estimates from prior operation. Based on this comparison, the offsite environmental impact that may occur is expected to be about the same as that which occurred during prior plant operation. Occupational exposures to radiation are not expected to change significantly. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendment beyond those previously projected and evaluated in the Final Environmental Statement on the operation of TMI–1 issued in December 1972 (reprinted as NUREG–0552, April 1979).

With regard to potential nonradiological impacts, the proposed change involves systems located within the restricted area as defined in 10 CFR Part 20. No nonradiological effluents are affected, and no other environmental impact would occur. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed change.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to TMI–1 operation (Final Environmental Statement dated December 1972).

Agencies and Persons Consulted: The Commission's staff reviewed the licensees' request and did not consult other agencies or persons with regard to environmental impact.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated May 9, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 17th day of December 1984.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 84-33254 Filed 12-20-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Amendment to Facility Operating License Georgia Power Co. et al.

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment of Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia (the licensees) for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia.

Environmental Assessment

Identification of Proposed Action: The proposed action would permit the licensees to implement changes (called the Average Power Range Monitor/Rod Block Monitor/Technical Specification (ARTS) Improvement Program) to Hatch Plant, Units 1 and 2, and Technical Specifications as described in their letter of February 6, 1984, as supplemented September 6, 1984. The following assessment applies to Unit 1.

The Need for the Proposed Action: The need for the proposed action is to:

(i) Reduce the need for manual setpoint adjustments and allow for more direct thermal limit administration;

(ii) Improve the quality of electronic hardware in the Rod Block Monitor; and

(iii) Change certain operating limits to bring about consistency among the various changes being implemented.

Environmental Impacts of the Proposed Action: The proposed action improves the accuracy of indications provided to the operator for control of thermal parameters in the reactor. The net power level is unchanged. The response of the reactor protection system under accident conditions is unchanged. Thus, post-accident radiological releases will not be greater than previously determined, nor does the proposed change otherwise affect radiological plant effluents. Occupational exposures to radiation would also be unaffected. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed amendment.

With regard to potential nonradiological impacts, the proposed change involves systems located within the restricted area as defined in 10 CFR Part 20. No nonradiological effluents are affected, and no other environmental impact would occur. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed change.

Since we have concluded that there is no measurable environmental impact associated with the proposed changes to the TSs, any alternatives to these changes will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to Hatch Unit 1 operation (Final Environmental Statement dated October 25, 1972).

Agencies and Persons Consulted: The Commission's staff reviewed the licensees' request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated February 6, 1984, as supplemented September 6, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland, this 7th day of December 1984.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 84-33253 Filed 12-20-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-528]

Arizona Public Service Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a partial exemption from the requirements of Appendix A and Appendix J to 10 CFR Part 50 to the Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority (the applicants) for the Palo Verde Nuclear Generating Station, Unit 1 located at the applicants' site in Maricopa County, Arizona.

Environmental Assessment

Identification of Proposed Action: The exemption from Appendix A would delay until initial criticality the sealing of piping penetrations that would provide flood protection for the auxiliary feedwater pumps. The exemption from Appendix J would eliminate the full pressure test required by paragraph III.D.2(b)(ii) and substitute a seal leakage test to be conducted at a pressure specified in the Technical Specifications. The proposed exemptions are in accordance with the applicants' letters dated December 5, 1984 and December 13, 1984, respectively.

The Need for the Proposed Action: The proposed Appendix A exemption would allow the applicant to load fuel and conduct tests on schedule. The proposed Appendix J exemption is required to provide the applicant with greater plant availability over the lifetime of the plant.

Environmental Impacts of the Proposed Action: The proposed Appendix A exemption delays until initial criticality the sealing of piping penetrations that would provide flood protection for the auxiliary feedwater pumps. Since there is no decay heat prior to initial criticality that would require the use of the auxiliary feedwater system, there is no environmental impact. The proposed exemption grants the substitution of an airlock seal test for an airlock pressure test while the reactor is in a shutdown or refueling mode. With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability of containment leakage during an accident. This could lead to

higher offsite and control room doses. However, this potential increase is very small, due to the added seal leakage tests and the protection against excessive leakage afforded by the other tests required by Appendix J.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the proposed exemptions, any alternative to these exemptions will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemptions. This would not reduce environmental impacts of plant operations and would result in reduced operational flexibility and unwarranted delays in power ascension.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the "FES Related to the Operation of Palo Verde Nuclear Generating Station, Units 1, 2 and 3," dated February 1982.

Agencies and Persons Consulted: The NRC staff reviewed the applicants' request that supports the proposed exemptions. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the letters dated December 5, 1984 and December 13, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Bethesda, Maryland, this 19th day of December 1984.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Assistant Director for Licensing, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-33383 Filed 12-20-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-388]

Pennsylvania Power and Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering granting of relief from the requirements of Section XI of the ASME Boiler and Pressure Vessel Code as allowed by 10 CFR 50.55a to the Pennsylvania Power and Light Company (the licensee) for the Susquehanna Steam Electric Station Unit 2, located in Luzerne County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action: The proposed action would provide relief from hydrostatic testing requirements of the ASME Code Section XI for the testing required following repair. The licensee intends to make a cut in an ASME Class 2 non-safety-related main steam drip leg drain line to remove a suspected blockage in the line then reweld the line.

The Need for the Proposed Action: The hydrostatic test for the 1½ inch weld will involve removal of main steam relief valves (since the MSIV's cannot be used for isolation on the outboard side), pressurizing the reactor vessel, and pressurizing against a turbine stop valve which, if it leaks, could allow water into the high pressure (HP) turbine. It is not practical to perform the hydrostatic test based on the situation as described above.

Environmental Impacts of the Proposed Action: The repair will be performed during the SSES Unit 2 November-December 1984 precommercial outage. The proposed relief will provide alternate examination of the piping following repair in order to assure the integrity of the weld. This proposed alternate examination is described in the licensee's request. Consequently, the probability of an accident has not been increased and the post accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed relief. With regard to potential non-radiological impacts, the proposed relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed relief.

Alternative to the Proposed Action: Since the NRC staff has concluded that there is no measurable environmental impact associated with the proposed change, any alternative to this change may result in a greater environmental impact.

The principal alternative would be to deny the requested relief. This would not reduce environmental impacts of plant operation and could result in water leakage into the HP turbine.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement" related to the operation of Susquehanna Steam Electric Station Units 1 and 2 dated June 1981.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letter dated November 2, 1984. This is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Ousterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland, this 19th day of December 1984.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Assistant Director for Licensing, Division of Licensing.

[FR Doc. 84-33384 Filed 12-20-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21454; File No. SR-NYSE-84-39]

The New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 2, 1984.

The New York Stock Exchange, Inc. ("NYSE") submitted on October 31, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to extend the time period for the NYSE to

test the operation of the Registered Representative Rapid Response Service ("R4") for 60 days from November 7, 1984, the scheduled expiration date, so that the Commission may act on the NYSE's request, as submitted in a companion 19b–4 filing, that the R4 program be extended to November 7, 1985.

In order to assist the Commisison in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the Federal Register. Persons submitting comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comments should refer to File No. SR–NYSE–84–39.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the NYSE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NYSE and in particular, the requirements of sections 11A(a)(1) and 17A(a)(1) and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that accelerated approval will avoid suspension of the R4 service and the benefits currently being received by public investors and member organizations.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–33204 Filed 12–20–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–2153A]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.

Correction

In FR Doc. 84–32599 beginning on page 48851 in the issue of Friday, December 14, 1984, change the date of the document to December 10, 1984.

John Wheeler,

Secretary.

December 17, 1984.

[FR Doc. 84–33268 Filed 12–20–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–21535A]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.

Correction

In FR Doc. No. 84–32603 beginning on page 48850 in the issue of Friday, December 14, 1984, change the date of the document to December 10, 1984.

John Wheeler,

Secretary.

December 17, 1984.

[FR Doc. 84–33269 Filed 12–20–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–21568; File No. SR–NASD–84–30]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Relating to Amendments to Schedule C of the NASD By-Laws

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 11, 1984, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association proposes to amend Schedule C of the NASD By-Laws to expand the types of products permitted to be handled by persons registered as Limited Principal-Investment Company and Variable Contract Products and Limited Representative-Investment Company and Variable Contract Products.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendments to Schedule C of the NASD By-Laws to expand the types of products permitted to be handled by persons registered as Limited Principal-Investment Company and Variable Contract Products and Limited Representative-Investment Company and Variable Contract Products to include fixed annuity contracts funding agreements and similar type products.

These products take the form of the contracts with insurance companies and may or may not have mortality risk assumptions by the insurance companies. For the most part, they tend to shift some investment risks to the purchaser. This same feature also suggests that these products may fall within the definition of "securities" under the federal securities laws. The contracts are issued from the insurance companies' general accounts as such rather than from separate accounts. They do not meet the definition of "Variable Contract Products" under the current language contained in Schedule C and can therefore be handled only by General Securities Representatives and Principals. Moreover, some of these products may be sold pursuant to exemptions from registration under the Securities Act of 1933. The Association's Qualifications Committee examined several of these products and determined that, because of the clear similarities between the sales techniques and investment considerations for these products and those for Variable Contracts Products, which may be sold by limited registrants, it would be appropriate and in the public interest to amend Schedule C to permit limited registrants to sell these new products as well.

The proposed rule change is consistent with and in furtherance of the Association's authority under section 15A(g)(3) of the Act which states that the Association "may examine and verify the qualifications of applicants to become a person associated with a member in accordance with procedures established by the rules of the Association and require a natural person associated with the member or any class of such natural persons, to be registered with the Association in accordance with procedures so established."

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes the proposed rule change will likely be beneficial to competition and that, in any event, the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period as the Commission may designate up to 120 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than thosse that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available at the principal office of above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 10, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 17, 1984.

John Wheeler,

Secretary.

[FR Doc. 84-33270 Filed 12-20-84; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 17, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

FPL Group, Inc.
Common Stock, $.01 Par Value, File No. 7-8194

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 9, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, purusant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 84-33266 Filed 12-20-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 17, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

General Motors Corporation
Class E Common Stock, $.10 Par Value, File No. 7-8193

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 9, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 84-33267 Filed 12-20-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP84-10; Notice 2]

Grumman Allied Industries, Inc.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by Grumman Olson Division, Sturgis, Michigan, a division of Grumman Allied Industries, Inc., to be expected from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.101, Motor Vehicle Safety Standard No. 101,

Controls and Displays. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 9, 1984 (49 FR 31474) and an opportunity afforded for comment.

Paragraph S5.3.1 of Standard 101 requires that the identification of certain controls be capable of being illuminated when the headlamps are activated. Grumman Olson furnished identification in the form of both the required symbol and the optional wording but only the optional wording is capable of illumination. This condition was said to exist on 188 walk-in parcel delivery vans manufactured in April and May 1984.

Petitioner argued that the noncompliance is inconsequential because all the vans are owned by a single company with trained operators, who speak English and understand the illuminated wording, and that many of the controls are located as close as possible to the device it operates to minimize confusion and simplify the panel area. Finally, the vehicles comply with requirements in effect before September 1, 1980.

No comments were received on the petition.

The agency concurs in the view that the failure to illuminate the symbol has a negligible effect upon safety; illumination of the wording, the mode of compliance several years ago, is sufficient to meet the needs of safety in this situation. Therefore, the agency finds that petitioner has met its burden of persuasion that the noncompliance with Standard No. 101 herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on December 17, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84–33195 Filed 12–20–84; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 247
Friday, December 21, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, December 17, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Finance and Thrift Company, an operating noninsured industrial bank located in Porterville, California, for Federal deposit insurance.

Application of Merrill Lynch Bank and Trust Company, a proposed new bank to be located in Plainsboro Township, New Jersey, for Federal deposit insurance and for consent to exercise limited trust powers.

Application of Valley State Bank, Los Angeles (Van Nuys), California, an insured State nonmember bank, for the Corporation's consent to purchase certain assets of and assume the liability to pay deposits made in the Woodland Hills, California branch of Barclays Bank of California, San Francisco, California, and for consent to relocate its Woodland Hills branch presently located at 21801 Ventura Boulevard to 6201 Topanga Canyon Boulevard (the site of the newly-acquired office), within Woodland Hills.

Memorandum re: Amendment to the Corporation's General Travel Regulations.

Memorandum regarding Corporation office space in Chicago, Illinois.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 18, 1984.

Federal Deposit Insurance Corporation,

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-33324 Filed 12-19-84; 1:14 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, December 17, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request to examine a State member bank under section 10(b) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552(b)(8) and (c)(9)(A)(ii))).

Application of Nevada First Thrift, an operating noninsured industrial bank located in Reno, Nevada, for Federal deposit insurance.

Application of Bear Stearns Trust Company, a proposed new bank to be located in Trenton, New Jersey, for Federal deposit insurance and for consent to exercise full trust powers.

Request of The State Exchange Bank, Culver, Indiana, an insured State nonmember bank, for reconsideration of a previous denial of an application for consent to merge, under its charter and with the title "NorCen Bank," with Farmers State Bank, LaPaz, Indiana, and to establish the two offices of Farmers State Bank as branches of the resultant bank.

Notice of Acquisition of Control: Greenwood Trust Company, Greenwood, Delaware.

Request for relief from reimbursement under the Trust in Lending Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(8) and (c)(9)(A)(ii))).

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 18, 1984.

Federal Deposit Insurance Corporation,

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-33325 Filed 12-19-84; 1:15 pm]

BILLING CODE 6414-01-M

3

POSTAL RATE COMMISSION

TIME AND DATE: 11:15 A.M. Thursday, December 20, 1984.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The decision in MC84-2 E-COM SERVICE.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254-3880.

Charles L. Clapp,

Secretary.

[FR Doc. 84-33355 Filed 12-19-84; 3:40 pm]

BILLING CODE 7715-01-M

federal register

Friday
December 21, 1984

Part II

Council on Environmental Quality

40 CFR Ch. V
National Environmental Policy Act (NEPA) Implementation Procedures; Appendices I, II, and III; Final Rule

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Ch. V

National Environmental Policy Act (NEPA) Implementation Procedures; Appendices I, II, and III

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Appendices to regulations.

SUMMARY: These appendices are intended to improve public participation and facilitate agency compliance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality's NEPA Regulations.

Appendix I updates and replaces the Federal and Federal-State Agency NEPA Contacts that appeared in Appendix I in the **Federal Register** of Thursday, August 28, 1980 (45 FR 57488).

Appendix II updates and replaces the compilation of Federal and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues that appeared in Appendix II in the **Federal Register** of Thursday, August 28, 1980 (45 FR 57491).

Appendix III is reinstated as, and is an update of, the listing of Federal and Federal-State Agency Offices for Receiving and Commenting on Other Agencies' Environmental Documents. Appendix III last appeared in the **Federal Register** of August 1, 1973 (38 FR 20559).

EFFECTIVE DATE: December 21, 1984.

ADDRESSES: Comments should be addressed to General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20006–4978.

FOR INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20006–4978 (202) 395–5754.

SUPPLEMENTARY INFORMATION:

Appendix I—Federal and Federal-State Agency National Environmental Policy Act (NEPA) Contacts

Section 1507.2 of the Council's regulations for implementing the procedural provisions of the National Environmental Policy Act requires agencies to have an individual responsible for overall NEPA compliance. This appendix identifies the individual within each agency that is responsible for coordinating with the Council on behalf of that agency and for exercising NEPA oversight within that agency. This person can provide basic information about the agency's NEPA activities and about the procedures which the agency has adopted to supplement the Council regulations (40 CFR 1507.3).

To ascertain the proper office in an agency for receiving and commenting on other agencies' environmental documents, refer to Appendix III of this issuance.

Appendix II—Federal and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues

This appendix is a compilation of Federal and Federal-State agencies with jurisdiction by law, a statutorily mandated consultative role, or special expertise on environmental quality issues. Both the public and private sectors and governmental agencies can use this list as a reference guide to facilitate their participation in and compliance with NEPA process.

The appendix is organized into four broad categories: pollution control, energy, land use, and natural resource management. Because most actions involve environmental issues falling into more than one of these categories, users should consult all pertinent entries.

The areas of special expertise are listed in parentheses *following* the agency name. They are intended to provide examples rather than define the limits of an agency's total expertise in that area.

The areas of jurisdiction by law and statutorily mandated consultations are listed *below* each appropriate agency or component. Entries dealing with jurisdiction by law relate to that agency's authority to approve, deny, or finance all or part of a proposal and include permits and licenses. Because experience in implementing NEPA has proven that identification of an agency's statutorily mandated consultative role is of equal significance to users of this list, those responsibilities are now specifically cited and include such authorities as the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 *et seq.*), the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 *et seq.*), and the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 *et seq.*). Because laws are amended and new laws enacted, the responsibilities identified in this appendix may change or new ones may be added. Hence, the definitive responsibility of an agency depends on the then current law and not on this index.

The Council on Environmental Quality has prepared this list to supplement its NEPA regulations and believes that it will be helpful in the following ways:

First, the Council's NEPA regulations require the Federal agency having primary responsibility for preparing an environmental impact statement (EIS) under NEPA (the lead agency) to determine whether any other Federal agencies have jurisdiction by law or special expertise with respect to any environmental effects involved in a proposal for legislation or other major Federal action significantly affecting the human environment. 40 CFR 1501.5(a), 1501.6(a), 1501.7(a). The Federal lead agency must, early in the NEPA process, request the participation of Federal cooperating agencies with jurisdiction by law or special expertise concerning the proposal. 40 CFR 1501.6(a), 1501.7(a). The lead agency and those involved in the "scoping process" (see 40 CFR 1501.7) may use this list to help determine which other Federal agencies should be requested to participate as cooperating agencies in the NEPA process. The list will also be helpful to the lead agency in determining which agencies should receive copies of the draft environmental impact statement for review and comment. 40 CFR 1503.1.

Second, this compilation will prove useful to those whose activities or proposed actions require Federal regulatory approvals by facilitating the identification of:

a. Those Federal agencies with the authority to issue applicable permits, licenses or other Federal regulatory approvals, and

b. Those Federal agencies that have a statutorily mandated consultative role that must be carried out before a decision is made.

Third, a major goal of NEPA and the CEQ regulations is to encourage public participation in agency decisionmaking. 40 CFR 1500.2(d). Individuals, citizen groups and State and local governments who are interested in an environmental issue may use the list to help identify those agencies that have jurisdiction by law over or special expertise in the subject matter of a proposal. Those interested may then contact the potentially involved agencies to obtain information on the issues and to participate in the NEPA process.

Appendix III—Federal and Federal-State Agency Offices for Receiving and Commenting on Other Agencies' Environmental Documents

Section 1503.1 of the Council's regulations for implementing the procedural provisions of the National Environmental Policy Act requires the agency that has prepared a draft environmental impact statement to "obtain the comments of any Federal

agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards." Section 1503.2 discusses the "Duty to Comment" by those Federal agencies. This appendix identifies the location of the Federal and Federal-State agency offices for receiving and commenting on other agencies' environmental documents. The agency distributing the environmental document should give special attention to the instruction immediately following the agency name to ensure that the comment request and document(s) are sent to the correct office, e.g., some agencies ask that documents concerning legislation, regulations, national program proposals and other major policy issues be sent only to its headquarters office with all other documents to be sent to a regional office. If a transmitting agency has questions about where to send a document, consult the Federal agency NEPA contact listed in Appendix I.

Other Information

Since agency responsibilities, legal authorities, programs, and other data appearing in these Appendices change regularly, the Council will update the Appendices periodically. Agencies and the public are strongly encouraged to send comments noting changes or corrections that should be made to any Appendix.

Dated: December 14, 1984.

Dinah Bear,

General Counsel.

Editorial Note: The following appendices will not appear in the CFR.

Appendix I—Federal and Federal-State Agency National Environmental Policy Act (NEPA) Contacts

DEPARTMENTS

Department of Agriculture

Assistant Secretary for Natural Resources and Environment, Department of Agriculture; Attn: Executive Secretary, Natural Resources and Environment Committee; Room 242 W, Administration Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 447–5166.

Department of Agriculture Components

Agricultural Research Service: Deputy Administrator, National Program Staff, Agricultural Research Service, Department of Agriculture; Room 125, Bldg. 005, Agricultural Research Center-West, Beltsville, MD 20705–2350. (301) 344–3084.

Agricultural Stabilization and Conservation Service: Chief, Planning and Evaluation Branch, Conservation and Environmental Protection Division; Agricultural Stabilization and Conservation Service, Department of Agriculture, Room 4714, South Agriculture Bldg., 14th St. and Independence Ave., SW, P.O. Box 2415, Wash., D.C. 20013–2415. (202) 447–3264.

Animal and Plant Health Inspection Service: Environmental Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture; Room 600, Federal Bldg., 6505 Belcrest Road, Hyattsville, MD 20782–2058. (301) 436–8896.

Economic Research Service: Director, Natural Resource Economics Division, Economic Research Service, Department of Agriculture, Room 412, GHI Bldg., 500 12th St. SW, Wash., D.C. 20250–0001. (202) 447–8239.

Extension Service: Deputy Administrator, Natural Resources and Rural Development, Extension Service, Department of Agriculture, Room 3909, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 447–7947.

Farmers Home Administration: Environmental Protection Specialist, Program Support Staff; Farmers Home Administration, Department of Agriculture, Room 6309, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 382–9619.

Food Safety and Inspection Service: Director, Regulations Office, Food Safety and Inspection Service, Department of Agriculture, Room 2940, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 447–3317.

Forest Service: Director, Environmental Coordination Staff, Forest Service, Department of Agriculture; Room 4204, South Agriculture Bldg., 14th St. and Independence Ave., SW, P.O. Box 2417, Wash., D.C. 20013–2417. (202) 447–4708.

Rural Electrification Administration: Environmental Policy Specialist, Engineering Standards Division, Rural Electrification Administration, Department of Agriculture, Room 1257, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 382–0097.

Soil Conservation Service: National Environmental Coordinator, Environmental Activities Branch, Ecological Sciences Division, Soil Conservation Service, Department of Agriculture, Room 6155, South Agriculture Bldg., 14th St. and Independence Ave., SW, P.O. Box 2890, Wash., D.C. 20013–2890. (202) 447–4912.

Department of Commerce

Chief, Ecology and Conservation Division, Office of Policy and Planning, National Oceanic and Atmospheric Administration, Department of Commerce, Room H–6111, Herbert Hoover Bldg., 14th St. and Constitution Ave., NW, Wash., D.C. 20230–0001. (202) 377–5181.

Department of Commerce Components

Economic Development Administration: Associate Director for Environment, Economic Development Adminstration, Department of Commerce, Room 7319, Herbert Hoover Bldg., 14th St. and Constitution Ave., NW, Wash., D.C. 20230–0001. (202) 377–4208.

National Oceanic and Atmospheric Administration: Chief, Ecology and Conservation Division, Office of Policy and Planning, National Oceanic and Atmospheric Administration, Department of Commerce, Room H–6111, Herbert Hoover Bldg., 14th St. and Constitution Ave., NW, Wash., D.C. 20230–0001. (202) 377–5181.

Department of Defense

Director, Environmental Policy, Office of the Assistant Secretary of Defense (Manpower, Installations and Logistics), Department of Defense, Room 3D833, The Pentagon, Wash., D.C. 20301–0001. (202) 695–7820.

Department of Defense Components

Defense Logistics Agency: Staff Director, Office of Installation Services and Environmental Protection, Defense Logistics Agency, Department of Defense, Cameron Station, Room 4D446, Alexandria, VA 22304–6100. (202) 274–6124.

Department of the Air Force: Deputy for Environment and Safety, Office of the Deputy Assistant Secretary for Installations, Environment and Safety, Department of the Air Force, Room 4C916, The Pentagon, Wash., D.C. 20330–0001. (202) 697–9297.

Department of the Army: Chief, Army Environmental Office, Attn: HQDA (DAEN–ZCE); Department of the Army, Room 1E676, The Pentagon, Wash., D.C. 20310–2600. (202) 694–3434.

Corps of Engineers: Assistant Director of Civil Works, Environmental Programs (DAEN–CWZ–P), Office of the Chief of Engineers, Room 7233, Pulaski Bldg., 20 Massachusetts Avenue, NW., Wash., D.C. 20314–1000. (202) 272–0103.

Department of the Navy: Director, Environmental Protection and Occupational Safety and Health Division (OP–453), Office of the Chief of Naval Operations, Department of the Navy, Bldg. 200, Room S–3, Washington Navy Yard, Wash., D.C. 20374–0001. (202) 433–2426.

U.S. Marine Corps: Head, Land Resources and Environmental Branch, Code: LFL, U.S. Marine Corps, Commonwealth Bldg., Room 614, 1300 Wilson Blvd., Arlington, VA. (202) 694–9237/38. MAILING ADDRESS: Commandant, U.S. Marine Corps, ATTN: Land Resources and Environmental Branch, Code: LFL, Wash., D.C. 20380–0001.

Department of Energy

Director, Office of Environmental Compliance (PE–25), Department of Energy, Room 4G–085, Forrestal Building, 1000 Independence Ave., SW, Wash., D.C. 20585–0001. (202) 252–4600.

Department of Health and Human Services

Departmental Environmental Officer, Office of the Assistant Secretary for Management Analysis and Systems, Department of Health and Human Services, Room 542 E, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Wash., D.C. 20201–0001. (202) 245–7354.

Department of Health and Human Services Components

Center for Disease Control: Chief, Environmental Affairs Group, Center for Environmental Health, Center for Disease Control, Room 1015, Bldg.: Chamblee–9,

Atlanta, GA 30329–4018. (404) 452–4257; (FTS) 236–4257.

Food and Drug Administration: Chief, Environmental Impact Staff (HFV–310) Food and Drug Administration, Parklawn Bldg., Room 7–89, 5600 Fishers Lane, Rockville, MD 20857–0001. (301) 443–1880.

Health Resources and Services Administration: Chief Environmental Health Branch, Division of Clinical and Environmental Services, Indian Health Service, Health Resources and Services Administration, Parklawn Building, Room 6A–54, 5600 Fishers Lane, Rockville, MD 20857–0001. (301) 443–1043.

National Institutes of Health: Chief, Environmental Protection Branch, National Institutes of Health, Bldg. 13, Room 2E55, 9100 Rockville Pike, Bethesda, MD 20205–0001. (301) 496–3537.

Office of Community Services: Director, Office of State Project Assistance, Office of Community Services, Room 500, Brown Bldg., 1200 19th St., NW., Wash., D.C. 20506–0007. (202) 653–5875.

Department of Housing and Urban Development

Director, Office of Environment and Energy, Department of Housing and Urban Development, Room 7154, HUD Building, 451 Seventh St., SW., Wash., D.C. 20410–0001. (202) 755–7894.

Department of the Interior

Director, Office of Environmental Project Review, Department of the Interior, Room 4260, Interior Bldg., 18th and C Sts., NW, Wash., D.C. 20240–0001. (202) 343–3891.

Department of the Interior Components

Fish and Wildlife Services: Chief, Division of Environmental Coordination, Fish and Wildlife Service, Department of the Interior, Room 402, Hamilton Bldg., 1375 K St., NW, Wash., D.C. (202) 343–5685. MAILING ADDRESS: 18th & C Sts., NW, Wash., D.C. 20240–0001.

Geological Survey: Chief, Review Unit, Environmental Affairs Program (MS–423), U.S. Geological Survey, Department of the Interior, Room 2D318, 12201 Sunrise Valley Drive, Reston, VA 22092–9998. (703) 860–7556.

Bureau of Indian Affairs: Chief, Environmental Services Staff, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Room 4560, Interior Bldg., 18th and C Sts., NW, Wash., D.C. 20245–0001. (202) 343–6574.

Bureau of Land Management: Chief, Office of Planning and Environmental Coordination, Bureau of Land Management, Department of the Interior, Room 906, Premier Bldg., 1725 I St., NW, Wash., D.C. 20240–0001. (202) 653–8830.

Minerals Management Service: Chief, Offshore Environmental Assessment Division, Mineral Management Service, Department of the Interior, Room 2044, Interior Bldg., 18th and C Sts., NW, Wash., D.C. 20240–0001 (202) 343–2097.

Bureau of Mines: Special Assistant for Environmental Assessment, Bureau of Mines, Department of the Interior, Room 1004, Columbia Plaza Bldg., 2401 E St., NW, Wash., D.C. 20241–0001. (202) 634–1310.

National Park Service: Chief, Environmental Compliance Division (762), National Park Service, Department of the Interior, Room 1210, Interior Bldg., 18th and C Sts., NW, Wash., D.C. 20240–0001. (202) 343–2163.

Bureau of Reclamation: Director, Office of Environmental Affairs, Bureau of Reclamation, Department of the Interior, Room 7622, Interior Bldg., 18th and C Sts., NW, Wash., D.C. 20240–0001. (202) 343–4991.

Office of Surface Mining: Chief, Division of Permits and Environmental Analysis, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Room 134, Interior-South Bldg., 1951 Constitution Ave., NW., Wash., D.C. 20240–0001. (202) 343–5261.

Department of Justice

Assistant Chief, General Litigation Section, Land and Natural Resources Division, Department of Justice, Room 2133, Justice Bldg., 9th St. and Pennsylvania Ave., NW, Wash., D.C. 20530–0001. (202) 633–2704.

Department of Justice Components

Bureau of Prisons: Chief, Office of Facilities Development and Operations, Bureau of Prisons, Department of Justice, 320 First St., NW, Wash., D.C. 20534–0001. (202) 724–3232.

Drug Enforcement Administration: Deputy Assistant Administrator, Office of Science and Technology, Drug Enforcement Administration, Department of Justice, 1405 Eye St., NW, Wash., D.C. 20537–0001. (202) 633–1211.

Immigration and Naturalization Service: Chief, Facilities and Engineering Branch, Immigration and Naturalization Service, Department of Justice, 425 Eye St., NW, Wash., D.C. 20536–0001. (202) 633–4448.

Office of Justice Assistance, Research and Statistics: Director, Office of Justice Assistance, Research and Statistics; Department of Justice, Room 1300, 633 Indiana Ave., NW, Wash., D.C. 20531–0001. (202) 724–5933.

Office of Legal Counsel: Assistant Attorney General, Office of Legal Counsel, Department of Justice, Room 5214, Justice Bldg., 9th St. and Pennsylvania Ave., NW, Wash., D.C. 20530–0001. (202) 633–2041.

Department of Labor

Director, Office of Regulatory Economics, Assistant Secretary for Policy, Department of Labor, Room S–2312, Frances Perkins Bldg., 200 Constitution Ave., NW, Wash., D.C. 20210–0001. (202) 523–6197.

Department of Labor Components

Mine Safety and Health Administration: Chief, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Department of Labor, Room 627, Ballston Tower #3, 4015 Wilson Blvd., Arlington, VA 22203–1923. (703) 235–1910.

Occupational Safety and Health Administration: Director, Office of Regulatory Analysis, Occupational Safety and Health Administration, Department of Labor, Room N–3635, Frances Perkins Bldg., 200 Constitution Ave., NW, Wash., D.C. 20210–0001. (202) 523–8017.

Department of State

Director, Office of Environment and Health, Department of State, Room 4325, State Department Bldg., 21st and C Sts., NW, Wash., D.C. 20520–0001.(202) 632–9266.

Department of Transportation

Deputy Director for Environment and Policy Review, Office of Economics, Department of Transportation, Room 10309 Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–4357.

Department of Transportation Components

Federal Aviation Administration: Director, Office of Environment and Energy (AEE–1), Federal Aviation Administration, Room 432, FOB–10A, 800 Independence Ave., SW, Wash., D.C. 20591–0001. (202) 426–8406.

Federal Highway Administration: Director, Office of Environmental Policy (HEV–1), Federal Highway Administration, Room 3222, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–0351.

Federal Railroad Administration: Director, Office of Economic Analysis (RRP–30), Federal Railroad Administration, Room 8300, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–7391.

Maritime Administration: Head, Environmental Activities Group (MAR–700.4), Maritime Administration, Room 2120, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–5739.

National Highway Traffic Safety Administration: Assistant Chief Counsel for General Law, Office of Chief Counsel (NOA–33), National Highway Traffic Safety Administration, Room 5219, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–1834.

Research and Special Programs Administration (includes Materials Transportation Bureau): Chief, Environmental Technology Division (DTS–48), Research and Special Programs Administration, US–DOT, Transportation Systems Center, Room 3–55, Kendall Square, Cambridge, MA 02142–1001. (617) 494–2018; (FTS) 837–2018.

St. Lawrence Seaway Development Corporation: Deputy Chief Engineer, St. Lawrence Seaway Development Corporation, Seaway Administration Bldg., 180 Andrews St., P.O. Box 520, Massena, NY 13662–1760. (315) 764–3256; (FTS) 953–0256.

United States Coast Guard: Chief, Environmental Compliance and Review Branch (G–WP–3), Office of Marine Environment and Systems, U.S. Coast Guard, 2100 2nd St., SW, Wash., D.C. 20593–0001. (202) 426–3300.

Urban Mass Transportation Administration: Director, Office of Planning Assistance (UGM–20), Urban Mass Transportation Administration, Room 9311, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–2360.

Department of Treasury

Manager, Environmental Quality, Physical Security and Safety Division, Department of the Treasury, Room 800, Treasury Bldg., 1331 G St., NW, Wash., D.C. 20220–0001. (202) 376–0289.

INDEPENDENT AGENCIES

ACTION

Assistant Director, Office of Policy and Planning, ACTION, Room M-606, 806 Connecticut Ave., NW, Wash., D.C. 20525-0001. (202) 634-9304; WATS #800-424-8580, ext. 81.

Advisory Council on Historic Preservation

Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, Old Post Office Building, Suite 803, 1100 Pennsylvania Ave., NW, Wash., D.C. 20004-2590. (202) 786-0505.

Appalachian Regional Commission

Director, Division of Housing and Community Development, Appalachian Regional Commission, 1666 Connecticut Ave., NW, Wash., D.C. 20235-0001. (202) 673-7845.

Arms Control and Disarmament Agency

General Counsel, Arms Control and Disarmament Agency, Room 5534, 320 21st St., NW, Wash., D.C. 20451-0001. (202) 632-3582.

Central Intelligence Agency

Chief, Real Estate and Construction Division, Office of Logistics, Central Intelligence Agency, Room 2FO9, Page Bldg., 803 Follin Lane, Vienna, VA. (703) 281-8111. MAILING ADDRESS: Washington, D.C. 20505-0001.

Civil Aeronautics Board

Chief, Environmental and Energy Programs (B-60C), Civil Aeronautics Board, Room 909, Universal Bldg., 1825 Connecticut Ave., NW, Wash., D.C. 20428-0001. (202) 426-9622.

Consumer Product Safety Commission

Assistant General Counsel, Office of the General Counsel, Consumer Product Safety Commission, Room 200, 5401 Westbard Ave., Bethesda, MD. (301) 492-6550. MAILING ADDRESS: Washington, D.C. 20207-0001.

Delaware River Basin Commission

Executive Director, Delaware River Basin Commission, 25 State Police Drive, P.O. Box 7360, West Trenton, NJ 08628-0360. (609) 883-9500; (FTS) 483-2077.

Environmental Protection Agency

Director, Office of Federal Activities (A-104), Environmental Protection Agency, Room 2119-I, 401 M St., SW, Wash., D.C. 20460-0001. (202) 382-5053.

Export-Import Bank of the United States

General Counsel, Export-Import Bank of the United States, Room 947, Lafayette Bldg., Room 947, 811 Vermont Ave., NW, Wash., D.C. 20571-0001. (202) 566-8334.

Farm Credit Administration

Deputy Governor—Region I, Office of Examination and Supervision, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090. (703) 883-4161.

Federal Communications Commission

Staff Attorney, Legal Counsel Division, Office of General Counsel, Federal Communications Commission, Room 621, 1919 M St., NW, Wash., D.C. 20554-0001. (202) 632-6990.

Federal Deposit Insurance Corporation

Director, Division of Accounting and Corporate Services, Federal Deposit Insurance Corporation, Room 6120, 550 Seventeenth St., NW, Wash., D.C. 20429-0001. (202) 389-4691.

Federal Emergency Management Agency

Associate General Counsel, Federal Emergency Management Agency, Room 840, 500 C St., SW, Wash., D.C. 20472-0001. (202) 287-0387.

Federal Energy Regulatory Commission

(1) Legal Matters: Deputy Assistant General Counsel, Division of Rulemaking and Policy Coordination, Office of General Counsel, Federal Energy Regulatory Commission, Room 8600A, 825 N. Capitol St., NE, Wash., D.C. 20426-0001. (202) 357-8033.

(2) Natural Gas Matters: Chief, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, Room 7102A, 825 N. Capitol St., NE, Wash., D.C. 20426-0001. (202) 357-8098.

(3) Electric and Hydroelectric Matters: Director, Division of Environmental Analysis, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 308, Railway Labor Building, 400 First St., NW, Wash., D.C. 20426-0001. (202) 376-1768.

Federal Home Loan Bank Board

Deputy Director for Corporate, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, Third Floor, East Wing, 1700 G St., NW, Wash., D.C. 20552-0001. (202) 377-6411.

Federal Maritime Commission

Director, Office of Energy and Environmental Impact, Federal Maritime Commission, 1100 L St., NW, Wash., D.C. 20573-0001. (202) 523-5835.

Federal Reserve Board

Senior Attorney, Office of General Counsel, Federal Reserve Board, Room B-1016E, 20th St. and Constitution Ave., NW, Wash., D.C. 20551-0001. (202) 452-3236.

Federal Trade Commission

Deputy Assistant General Counsel, Federal Trade Commission, Room 582, 6th St. and Pennsylvania Ave., NW, Wash., D.C. 20580-0001. (202) 523-1928.

General Services Administration

Director, Environmental Affairs Staff (PRE), Office of Space Management, Public Buildings Service, General Services Administration, Room 2323, 18th and F Sts., NW, Wash., D.C. 20405-0001. (202) 566-0654.

International Boundary and Water Commission, United States Section

Principal Engineer, Investigations and Planning Division, International Boundary and Water Commission, United States Section, IBWC Bldg., 4110 Rio Bravo, El Paso, TX 79902-1091. (915) 541-7304; (FTS) 572-7304.

Interstate Commerce Commission

Chief, Section of Energy and Environment, Office of Transportation Analysis, Interstate Commerce Commission, Room 4143, 12th St. and Constitution Ave., NW, Wash., D.C. 20423-0001. (202) 275-0800.

Lowell Historic Preservation Commission

Planning Director, Lowell Historic Preservation Commission, 204 Middle Street, Lowell, MA 01852-1815. (617) 458-7653; (FTS) 829-0766.

Marine Mammal Commission

General Counsel, Marine Mammal Commission, Room 307, 1625 Eye St., NW, Wash., D.C. 20006-3054. (202) 653-6237.

National Academy of Sciences

Staff Director, Environmental Studies Board, National Academy of Sciences, Room JH-804, 2101 Constitution Ave., NW, Wash., D.C. 20418-0001. (202) 334-3060.

National Aeronautics and Space Administration

Environmental Compliance Officer, Facilities Engineering Division (NXG), National Aeronautics and Space Administration, Room 5031, 400 Maryland Ave., SW, Wash., D.C. 20546-0001. (202) 453-1958.

National Capital Planning Commission

Environmental/Energy Officer, Division of Planning Services, National Capital Planning Commission, Room 1024, 1325 G St., NW, Wash., D.C. 20576-0001. (202) 724-0179.

National Credit Union Administration

Director, Department of Legal Services, National Credit Union Administration, Room 6261, 1776 G St., NW, Wash., D.C. 20456-0001. (202) 357-1030.

National Science Foundation

Chairman and Staff Associate, Committee on Environmental Matters; Office of Astronomical, Atmospheric, Earth and Ocean Sciences; National Science Foundation, Room 641, 1800 G St., NW, Wash., D.C. 20550-0001. (202) 357-7615.

Nuclear Regulatory Commission

(1) Director, Division of Engineering, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, Room P-202, Phillips Bldg., 7920 Norfolk Ave., Bethesda, MD 20814-2587. (301) 492-7207.

(2) Director, Division of Fuel Cycle and Materials Safety, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Room 562, Willste Building, 7915 Eastern Ave., Silver Spring, MD 20910-4896. (301) 427-4485.

Pennsylvania Avenue Development Corporation

Director of Development, Pennsylvania Avenue Development Corporation, Suite 1248, 425 13th St., NW, Wash., D.C. 20004-1856. (202) 523-5477.

Securities and Exchange Commission

Special Counsel, Office of Public Utility Regulation, Securities and Exchange

Commission, Room 7012, 450 Fifth St., NW, Wash., D.C. 20549–0001. (202) 272–7648.

Small Business Administration

Director, Office of Business Loans, Small Business Administration, Room 804–C, 1441 L St., NW, Wash., D.C. 20416–0001. (202) 653–6696.

Susquehanna River Basin Commission

Executive Director, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, PA. 17102–2391. (717) 238–0422.

Tennessee Valley Authority

Director, Environmental Quality Staff, Tennessee Valley Authority, 201 Summer Place Building, 309 Walnut St., Knoxville, TN 37902–1411. (615) 632–6578; (FTS) 856–6578.

United States Information Agency

Assistant General Counsel, United States Information Agency, 301 Fourth St., SW, Wash., D.C. 20547–0001. (202) 485–7976.

United States International Development Cooperation Agency

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Appendix II—Federal and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues

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I. POLLUTION CONTROL

A. Air Quality

Department of Agriculture

• Agricultural Research Service (effects of air pollution on vegetative growth).

• Farmers Home Administration (effects of air pollution on housing, community, and business loan programs, and farmer loan programs).

• Forest Service (effects of air pollution on vegetation and visibility; fire smoke management on National Forest and Grasslands).

• Rural Electrification Administration (electric power plant emissions).

• Soil Conservation Service (effects of air pollution on vegetation; wind erosion).

Department of Commerce

• National Bureau of Standards (air quality measurements, standards, data and methods).

• National Oceanic and Atmospheric Administration (meteorological and climatological research and monitoring in relation to urban air pollution; incorporation of national air quality standards in Coastal Zone Management Plans for management and protection of coastal and marine resources).

Department of Defense

• Department of the Air Force (air pollution from military aircraft).

• Department of the Army (emissions from military vehicles).

Department of Energy

• Economic Regulatory Administration (emissions from power plants and other major fuel-burning installations):

—Exemptions from prohibitions against burning of natural gas and oil in power plants and major fuel-burning installations. 42 U.S.C 7101 and 8301 (10 CFR Part 500, *et seq.*).

• Office of Policy, Safety, and Environment (air quality in relation to general energy policies, programs, and projects; emissions from energy sources).

Department of Health and Human Services

• Public Health Service: Center for Disease Control (effects of air pollution on health); National Institutes of Health (effects of air pollution on health).

Department of Housing and Urban Development

• Office of Community Planning and Development (effects of air pollution on the built environment; air pollution abatement; energy costs and State Implementation Plans).

• Office of Housing (effect of air pollution on housing values and marketability; economic impacts).

Department of the Interior

• Fish and Wildlife Service (effects of air pollution, including acid rain, on endangered species and critical habitats; National Wildlife Refuge System areas; and other fish and wildlife resources).

• Geological Survey (effects of acid rain on surface and ground waters).

• Bureau of Indian Affairs (effects of air pollution on Indian lands).

• Bureau of Land Management (effects of air pollution, including smoke from forest fires and prescribed burning, on public lands, vegetation and visibility).

• Minerals Management Service (emissions from outer continental shelf lease operations):

—Oil, gas, and sulphur operations on the outer continental shelf—air quality. 43 U.S.C. 1331, *et seq.*, and 42 U.S.C. 7411 (30 CFR Part 250.57).

• Bureau of Mines (air pollution from mining and minerals processing).

• National Park Service (visibility and other effects of air pollution on National Park System areas; effects of air pollution on recreation areas and historic, archeological and architectural sites).

• Office of Surface Mining Reclamation and Enforcement (air pollution from surface coal mining and reclamation operations; control of wind erosion at surface coal mines; control of coal waste fires).

Department of Labor

• Mine Safety and Health Administration (airborne hazards in mining operations).

• Occupational Safety and Health Administration (airborne hazards in the workplace):

—Air contaminants, toxic and hazardous substances. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910, Subpart Z).

Department of State (international aspects of air pollution).

Department of Transportation

• Coast Guard (cargo tank venting and vapor recovery systems).

• Federal Aviation Administration (aircraft emissions):

—Fuel venting and exhaust emission requirements for turbine engine powered airplanes. Special Federal Aviation Regulation 27 (SFAR). 42 U.S.C. 1857, *et seq.*, 7571 and 7601; 49 U.S.C. 1345, 1348, 1421, 1423 and 1655 (14 CFR Part 11; 40 CFR Part 87).

• Federal Highway Administration (highway related air quality impacts; vehicle emissions):

—Air quality conformity of highway projects. 23 U.S.C. 109; 42 U.S.C. 7401, *et seq.*, and 7506 (23 CFR Part 770).

• Federal Railroad Administration (locomotive emissions).

• Urban Mass Transportation Administration (air quality effects of urban transportation systems):

—Air quality conformity of transit projects. 42 U.S.C. 7401, *et seq.*, and 7506 (49 CFR Part 623).

Advisory Council on Historic Preservation (effects of air pollution on historic districts, buildings and monuments).

Consumer Product Safety Commission (toxic emissions from consumer products and household substances):

—Consumer products and household substances regulations. 15 U.S.C. 1261, *et seq.*, and 2051, *et seq.* (16 CFR Part 1000, *et seq.*).

Environmental Protection Agency (effect of air pollution on public health and welfare; air quality criteria and standards; air pollution control and abatement technologies; transportation emissions and air quality impacts; stationary source emissions; monitoring technology):

—Air quality programs in general. 42 U.S.C. 1857, *et seq.*; 7401, *et seq.*; 7501, *et seq.*; *and* 7601, *et seq.* (40 CFR Parts 50–87).

—Prevention of significant air quality deterioration. 42 U.S.C. 7470, *et seq.* (40 CFR Parts 51, 52 and 124).

—Approval of State Implementation Plans (SIPs) for National primary and secondary ambient air quality standards. 42 U.S.C. 7410 (40 CFR Parts 51 and 52).

—Approval of State plans for standards of performance for new stationary emission sources (NSPS). 42 U.S.C. 7411 (40 CFR Part 60).

—Applications for primary non-ferrous smelter orders. 42 U.S.C. 7419 (40 CFR Part 57).

—Assuring that Federal projects conform with State Implementation Plans. 42 U.S.C. 7616 (40 CFR Part 20).

—Certification of new emission sources for conformance with National Emission Standards for Hazardous Air Pollutants including radioactive materials. 42 U.S.C. 7412(c) (40 CFR Part 61).

Interstate Commerce Commission (air pollution from trucks and railroads).

National Aeronautics and Space Administration (advanced technology for remote sensing of air quality parameters and for reduction of aircraft engine emissions).

Nuclear Regulatory Commission (radioactive substances in air pollution):

—For jurisdictional responsibilities see Part I.E—Radiation.

Tennessee Valley Authority (air quality in the Tennessee Valley region; measurement and control of air pollution from fossil-fueled steamplants; effects on vegetation).

B. Water Quality

Department of Agriculture

• Agricultural Research Service (research on erosion and sediment control, pesticide degradation and runoff, and salinity).

• Agricultural Stabilization and Conservation Service (water quality on agricultural lands; Water Bank Program).

• Farmers Home Administration (water quality in relation to housing, community, and business loan programs, and farmer loan programs).

• Forest Service (effects of water pollution on National Forests and Grasslands, and on forest and range land in general):

—Consultation regarding effects of pollution on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

—Management of municipal watersheds on National Forest lands. (36 CFR Parts 251.9 and 251.35).

• Soil Conservation Service (water quality in relation to agricultural waste management, erosion and sediment control and stabilization of rural abandoned mines; salinity control; peticides in conservation systems):

—Reclamation of rural abandoned mined land. 30 U.S.C. 1201 *et seq.* (7 CFR Part 632).

—Program for land conservation and utilization, and aquaculture. 7 U.S.C. 1011(e).

Department of Commerce

• National Bureau of Standards (water quality measurements, standards, data, and methods).

• National Oceanic and Atmospheric Administration (water quality in the management and protection of coastal and marine resources, marine pollution research and monitoring for ocean mining):

—National Ocean Pollution Planning Act. 33 U.S.C. 1701, *et seq.*

—Marine Protection, Research, and Sanctuaries Act. 16 U.S.C. 1431, *et seq.* 15 CFR Part 922, *et seq.*).

Department of Defense

• Army Corps of Engineers (water pollution from activities in navigable waters):

—Rules governing work or structure in or affecting navigable waters of the United States. 33 U.S.C. 401 and 403 (33 CFR Parts 321 and 322).

—Authority to enjoin dumping of, or force removal of, refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407 (33 CFR Part 320.2(d)).

—Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (33 CFR Part 323).

—Guidelines controlling discharge of dredged or fill material in waters of the U.S. including wetlands. 33 U.S.C. 1344(b) and 1361(a) (40 CFR Part 230).

—Permits for transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413 (33 CFR Part 324).

—Regulation of artificial islands, installations and devices on the outer continental shelf. 43 U.S.C. 1333(e). (33 CFR Part 320.2(b)).

• Department of Navy (water pollution control for ships and naval installations; oceanography).

Department of Energy

• Office of Policy, Safety, and Environment (water quality and marine pollution in relation to general energy policies, programs and projects).

Department of Health and Human Services

• Center for desease Control (effects of water quality on health).

• Food and Drug Administration (shellfish sanitation; contamination of fish and shellfish with toxics).

Department of Housing and Urban Development

• Office of Community Planning and Development (effects of water pollution community planning and on sole source aquifers, floodplains, wetlands, and urban coastal zones).

Department of the Interior

• Fish and Wildlife Service (effects of water pollution on National Wildlife Refuge and National Fish Hatchery System areas, endangered species and their critical habitats, migratory waterfowl, floodplains, wetlands, estuarine areas, marine sanctuaries, barrier islands, and sport fisheries and wildlife resources).

• Geological Survey (general hydrology and water quality; National Water Summary; National Stream Quality Accounting Network [NASQAN]).

• Bureau of Indian Affairs (water quality on Indian lands).

• Bureau of Land Management (water quality on public lands):

—Permits and leases for facilities to control/reduce water pollution. 43 U.S.C. 1732(b) and 1761(a)(1) (43 CFR Part 2800).

• Minerals Management Service (effects of marine pollution on the outer continental shelf and coastal waters):

—Control of pollution from mineral mining, including oil and gas development, on the outer continental shelf. 43 U.S.C. 1331–1343. (30 CFR Parts 250, 251, 252 and 256).

• Bureau of Mines (water pollution from mining and mineral processing; acid mine drainage).

• National Park Service (effects of water pollution on National Park System areas including National Seashores and Lakeshores, on outdoor recreational values, and on historic, archeological, and architectural resources):

—Consultations regarding effects of pollution on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Bureau of Reclamation (effects of public works, salinity control, sedimentation, and irrigation on water quality; effects of water developments on estuarine areas; research in weather modification, water quality and quantity, and desalinization).

• Office of Surface Mining Reclamation and Enforcement (effects of surface coal mining and reclamation operations on water quality and hydrologic balance).

Department of State (international aspects of water pollution):

—Facilities for export/import of water and sewage. Executive Order 11423.

Department of Transportation

• Coast Guard (effects of oil spills and ship sanitation on water quality; ocean dumping enforcement; marine resource protection):

—Tanker construction, equipment, manning, operation. 46 U.S.C. 391(a) (33 CFR Part 157).

—Control of pollution by oil and hazardous substance discharges in ports, waterways, and offshore facilities. 33 U.S.C. 1008–1011, 1221, and 1321; 50 U.S.C. 191 (33 CFR Parts 151 and 154–156).

—Certification of marine sanitation devices. 33 U.S.C. 1322 (33 CFR Part 159).

• Federal Highway Administration (effects of highways, traffic and use of salt on water quality).

• Maritime Administration (water pollution from ships; destruction/treatment of wastes at sea):

—Merchant vessels, polluting discharges and dumping. 46 U.S.C. 1101, *et seq.*

—Port operations, polluting discharges and dumping. 46 U.S.C. 867.

• Research and Special Programs Administration: Materials Transportation Bureau (effects of hazardous substances transportation on water quality).

Advisory Council on Historic Preservation (effects of water pollution on historic districts, buildings and monuments).

Environmental Protection Agency (waste water treatment works; effluent limitations; oil and hazardous substance discharges; protection of drinking water supplies; thermal discharges; ocean dumping; monitoring technology):

—Water quality programs in general. 33 U.S.C. 1160, *et seq.*, and 1251, *et seq.*; 42 U.S.C. 300f, *et seq.*, and 6901, *et seq.* (40 CFR Parts 100–149).

—Effluent guidelines and standards. 33 U.S.C. 1251, *et seq.* (40 CFR Part 401, *et seq.*).

—Ocean dumping in general. 33 U.S.C. 1344, 1361 and 1412–1418 (40 CFR Parts 220–231).

—Permits for discharge of specific pollutants from aquaculture projects. 33 U.S.C. 1328 (40 CFR Parts 122–124).

—Review of permits for transportation of dredged material for ocean dumping. 33 U.S.C. 1413 (40 CFR Parts 220–229).

—Permits for transportation of materials (other than dredged material) for ocean dumping. 33 U.S.C. 1412 and 1414 (40 CFR Parts 220–229).

—Permits for disposal of sewage sludge. 33 U.S.C. 1345 (40 CFR Parts 122–125).

—Permits for ocean discharges. 33 U.S.C. 1343 (40 CFR Parts 125.120–125.124).

—Regulation of discharges of oil and hazardous substances in waters of the United States. 33 U.S.C. 1321 and 1361 (40 CFR Part 112).

—Permits for treatment, storage or disposal of hazardous wastes. 2 U.S.C. 6925 (40 CFR Parts 124, 270, and 271).

—Review of permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344(c) (40 CFR Part 230).

—Guidelines controlling the discharge of dredged or fill material in waters of the U.S. including wetlands. 33 U.S.C. 1344(b) and 1361(a) (40 CFR Part 230).

—Assistance for construction of publicly-owned waste water treatment works. 33 U.S.C. 1281 (40 CFR Parts 30 and 35).

—Underground injection control permits. 42 U.S.C. 300f, *et seq.* (40 CFR Parts 122–124 and 144–146).

—National Pollutant Discharge Elimination System (NPDES) wastewater permits. 33 U.S.C. 1342 (40 CFR Parts 122–125, 129, 133, and 136).

—Designation of Sole Source Aquifers. 42 U.S.C. 300f and h-3(e) (40 CFR Part 148).

Federal Emergency Management Agency (water quality in floodplain management).

Federal Maritime Commission (vessel certification with respect to liability for water pollution):

—Certificates of financial responsibility for water pollution. 33 U.S.C. 1321 (46 CFR Part 542); 42 U.S.C. 1643 (46 CFR Part 543); 43 U.S.C. 1815 (46 CFR Part 544).

International Boundary and Water Commission, United States Section (U.S.-Mexico border water quality, salinity, and sanitation problems).

National Aeronautics and Space Administration (advanced technology for remote sensing of water quality and marine pollution).

Nuclear Regulatory Commission (radioactive substances in water pollution):

—For jurisdictional responsibilities, see PART I. E—Radiation.

Tennessee Valley Authority (water quality in the Tennessee Valley; effects of chemical and thermal effluents).

C. Waste Disposal on Land

Department of Agriculture

• Agricultural Research Service (effects of agricultural wastes and sludge on cropland).

• Agriculture Stabilization and Conservation Service (effects of solid waste, especially sludge disposal, on cropland).

• Forest Service (effects of solid and liquid wastes on National Forests and Grasslands):

—Permits for disposal sites on National Forest System lands. 16 U.S.C. 495, 497, 532–538 and 580 (36 CFR Part 251).

• Rural Electrification Administration (solid waste disposal from electric power plants).

• Soil Conservation Service (agriculture waste management; siting of disposal areas; sludge application on cropland for beneficial purposes).

Department of Commerce

• National Bureau of Standards (measurements, standards, data, and methods relating to solid and liquid wastes).

• National Oceanic and Atmospheric Administration (disposal of solid wastes in the management and protection of coastal and marine resources).

Department of Health and Human Services

• Center for Disease Control (effects of wastes on health).

• Food and Drug Administration (contamination of food resulting from disposal of municipal and industrial waste treatment sludge).

Department of the Interior

• Fish and Wildlife Service (effects of solid wastes on National Wildlife Refuge and National Fish Hatchery System areas, endangered species and their critical habitats, and other fish and wildlife resources).

• Geological Survey (geologic and hydrologic effects of solid and liquid wastes).

• Bureau of Indian Affairs (effects of solid wastes on Indian lands).

• Bureau of Land Management (effects of solid wastes on public lands):

—Sale or lease of land for solid waste disposal sites. 43 U.S.C. 869, *et seq.* (for sale—43 CFR Part 2740; for lease—43 CFR Part 2912).

• Bureau of Mines (mine wastes; mineral processing wastes; tailings stabilization; impoundment structures; municipal solid wastes; recycling).

• National Park Service (effects of solid wastes on National Park System areas).

• Office of Surface Mining Reclamation and Enforcement (surface coal mining and reclamation operation wastes).

Department of Labor

• Mine Safety and Health Administration (mine waste control).

Department of Transportation

• Maritime Administration (destruction/treatment of wastes at sea).

• Research and Special Programs Administration: Materials Transportation Bureau (transport of hazadous wastes):

—Hazardous materials regulations. (49 CFR Part 171, *et seq.*).

Environmental Protection Agency (solid wastes; hazardous waste; resource conservation and recovery; removal and remedial actions; environmental effects):

Solid wastes in general. 42 U.S.C. 3251, *et seq.*, and 6901, *et seq.* (40 CFR Parts 240–271); 42 U.S.C. 9601 *et seq.* (40 CFR Part 300, *et seq.*).

—Permits for disposal of sewage sludge. 33 U.S.C. 1345 (40 CFR Parts 122–125).

—Solid Waste Disposal Act permits. 42 U.S.C. 3251, *et seq.*, and 6901, *et seq.* (40 CFR Parts 124, 257, 270, 271 and 350).

—Criteria for classification of solid waste disposal facilities and practices. 42 U.S.C. 6907(a)(3) and 6944(a); 33 U.S.C. 1345 (40 CFR Part 257).

—Identification and listing of hazardous wastes. 42 U.S.C. 6921 (40 CFR Part 261).

—Standards applicable to generators and transporters of hazardous waste, and for owners and operators of hazardous waste treatment, storage, and disposal facilities. 42 U.S.C. 6922–6924 (40 CFR Parts 260–267).

—Permits for hazardous waste treatment, storage, and disposal facilities. 42 U.S.C. 6925 (40 CFR Parts 123, 124, 270 and 271).

—Preliminary notification of hazardous waste activities. 42 U.S.C. 6930 (40 CFR Parts 261.5, 262.12, and 263.11).

—Removal and remedial actions taken in response to the release or threatened release of hazardous substances. 42 U.S.C. 9601 (23) and (24) 40 CFR Part 300).

—National Contingency plan for the release of oil and hazardous substances into the environment. 42 U.S.C. 9605 (40 CFR Part 300).

—Notification requirements for the release of hazardous substances into the environment. 42 U.S.C. 9605 (40 CFR Part 302).
—Assistance for construction of solid waste disposal facilities. 42 U.S.C. 6981, *et seq.* (40 CFR Parts 30 and 35).

Federal Emergency Management Agency (hazardous materials emergency management and disaster relief assistance).

General Services Administration (wastes in public buildings).

Nuclear Regulatory Commission (radioactive waste disposal):
—For jurisdictional responsibilities, see PART I. E—Radiation.

Tennessee Valley Authority (coal combustion products).

D. Noise

Department of Agriculture

• Farmers Home Administration (noise in relation to housing, community, and business loan programs, and farmer loan programs).
• Forest Service (noise effects on National Forests and Grasslands).
• Rural Electrification Administration (electric generating facility, powerline, and substation noise).

Department of Commerce

• National Oceanic and Atmospheric Administration (effects of noise on marine mammals).

Department of Defense

• Department of the Air Force (military aircraft noise).
• Department of the Army (noise from rotary wing aircraft and other military vehicles).

Department of Health and Human Services

• Public Health Service (effects of noise on health).

Department of Housing and Urban Development

• Office of Community Planning and Development (aircraft and vehicular noise and land use compatibility):
—Noise abatement and control. (24 CFR Part 51, Subpart B).
—Siting of HUD assisted projects in runway clear zones (civil airports) and clear zones and accident potential zones (military airfields). (24 CFR Part 51, Subpart D).
• Office of Housing (noise standards for housing; noise abatement and control).

Department of Interior

• Fish and Wildlife Service (effects of noise on endangered species and their critical habitats, National Wildlife Refuge System areas, and other fish and wildlife resources).
• Bureau of Indian Affairs (noise effects on Indian lands).
• Bureau of Land Management (noise effects on public lands; noise abatement and control).
• Minerals Management Service (effects of noise on marine mammals).
• Bureau of Mines (mine noise, blasting and vibration).
• National Park Service (effects of noise on National Parks system areas, including off-road vehicular noise; effects of noise and vibration on historic, archeological, and architectural sites, and recreational resources).
• Bureau of Reclamation (effects of noise on reclamation project lands).
• Office of Surface Mining Reclamation and Enforcement (noise from surface coal mining and reclamation operations, and from the use of explosives).

Department of Labor

• Mining Safety and Health Administration (noise in mining operations).
• Occupational Safety and Health Administration (noise in the workplace):
—Occupational noise exposure. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910.95).

Department of Transportation

• Federal Aviation Administration (aircraft noise and land use compatibility):
—Airport noise compatibility planning. 49 U.S.C. 1341, 1348, 1354, 1421, 1431, 1655 and 2101–2104 (14 CFR Part 150).
—Noise standards: Aircraft type and airworthiness certification. 49 U.S.C. 1354, 1421, 1423, 1431 and 1655 (14 CFR Part 36).
—Operating noise limits. 49 U.S.C. 1344, *et seq.*; 1421, *et seq.*, and 1655 (14 CFR Part 91, Subpart E).
—Civil aircraft sonic boom. (14 CFR Part 91.55).
• Federal Highway Administration (traffic and motor vehicle noise):
—Procedures for abatement of highway traffic and construction noise. 23 U.S.C. 109 (23 CFR Part 772).
• Federal Railroad Administration (railroad noise):
—Railroad noise emission compliance regulation. 42 U.S.C. 4901, *et seq.* (49 CFR Part 210).
—Noise standards for railroad employees. (49 CFR Parts 228–229).
• Urban Mass Transportation Administration (urban transportation system noise).

Advisory Council on Historic Preservation (effects of noise and vibration on historic districts, buildings and monuments).

Consumer Products Safety Commission (hazardous noise from consumer products):
—Consumer products regulations. 15 U.S.C. 1261, *et seq.*, and 2051, *et seq.* (16 CFR Part 1000, *et seq.*).

Environmental Protection Agency (noise exposure standards; noise abatement and control techniques; noise impact assessment techniques; environmental effects):
—Noise abatement programs. 42 U.S.C. 4901, *et seq.* (40 CFR Part 201, *et seq.*).

Interstate Commerce Commission (noise effects from trucks and railroads).

National Aeronautics and Space Administration (advanced technology for reduction of aircraft noise).

E. Radiation

Department of Agriculture

• Agricultural Research Service (effects of irradiation on insects and microorganisms in food).
• Forest Service (disposal of radioactive materials in National forests and Grasslands; electromagnetic radiation from powerlines and radio transmission systems).
• Rural Electrification Administration (electromagnetic radiation from high voltage sources).

Department of Commerce

• National Bureau of Standards (radiation measurements, standards, methods and data).
• National Oceanic and Atmospheric Administration (electromagnetic radiation from radar systems and telecommunications).

Department of Energy

• Office of Civilian Radioactive Waste Management (storage and disposal of commercial high-level radioactive waste and spent nuclear fuel).
• Office of Defense Programs (storage and disposal of Defense nuclear waste).
• Office of Energy Research (health effects of radiation and nuclear energy).
• Office of Policy, Safety, and Environment (nuclear energy and radioactive waste disposal; radiation effects).

Department of Health and Human Services

• Food and Drug Administration (effects of radiation on health and safety; contamination of food with radioactive materials).
• National Institutes of Health (effects of radiation on health).

Department of Housing and Urban Development

• Office of Community Planning and Development (radiation health and safety factors; siting and distance criteria):
—Policy guidance on problems posed by toxic chemicals and radioactive materials. (HUD Notice 79–33 of Sept. 10, 1979).
• Office of Housing (radiation location factors affecting value and marketability).

Department of the Interior

• Fish and Wildlife Service (effects of radiation on National Wildlife Refuges, endangered species and their critical habitats, and other fish and wildlife resources).
• Geological Survey (effects of radioactive waste disposal).
• Bureau of Indian Affairs (effects of radiation on Indian lands).
• Bureau of Land Management (effects of radiation on public lands):
—Withdrawal of public lands for deep-burial depositories for radioactive waste. 43 U.S.C. 1714 (43 CFR Part 2300, *et seq.*).
• Bureau of Mines (radiation from uranium mines).
• National Park Service (effects of radiation on National Park System areas).

Department of Labor

• Mining Safety and Health Administration (worker protection from radiation exposure in mining).
• Occupational Safety and Health Administration (worker protection from exposure to sources of radiation not covered by other Federal agencies):

—Ionizing and nonionizing radiation. 29 U.S.C. 655, *et seq.* (29 CFR Parts 1910.96 and 1910.97).

Department of Transportation

• Federal Aviation Administration (radiation effects on air traffic; transport of radioactive materials).

• Federal Highway Administration: Bureau of Motor Carrier Safety (radioactive material transportation in interstate commerce):

—Hazardous materials tables and communications regulations. (49 CFR Part 172).

• Research and Special Programs Administration: Materials Transportation Bureau (transportation of radioactive materials):

—Hazardous materials regulations. 49 U.S.C. 1801, *et seq.* (49 CFR Part 171, *et seq.*).

Consumer Product Safety Commission (radiation from consumer products and household substances):

—Consumer products and household substances regulations. 15 U.S.C. 1261, *et seq.*; 2051, *et seq.*, and 2080 (16 CFR Part 1000, *et seq.*).

Environmental Protection Agency (radiation protection standards and guidance; radioactive air emissions; ocean disposal of radioactive waste; radiation limits for drinking water; radiation monitoring):

—Radiation protection programs. 42 U.S.C. 2011, *et seq.* (40 CFR Part 190, *et seq.*).
—Standards for the uranium fuel cycle. 42 U.S.C. 2011, *et seq.* (40 CFR Part 190).
—Standards for uranium mill tailings. 42 U.S.C. 2022. (40 CFR Part 192).
—Radiation standards for drinking water. 42 U.S.C. 300f, *et seq.* (40 CFR Part 141).
—Guidance to other Federal agencies for environmental radiation standards. 42 U.S.C. 2021(h).

Federal Emergency Management Agency (review and approval of state and local nuclear incident emergency response plans; Federal contingency plans; radiation hazards emergency management).

Nuclear Regulatory Commission (radioactive wastes, radiation effects in general):

—Standards for protection against radiation. 42 U.S.C. 2073, *et seq.*, and 5841, *et seq.* (10 CFR Part 20).
—Licensing of byproduct material. 42 U.S.C. 2014, *et seq.*, and 5841, *et seq.* (10 CFR Parts 30–33 and 35).
—Licensing and radiation safety requirements for radiography. 42 U.S.C. 2111, *et seq.*, and 5841, *et seq.* (10 CFR Part 34).
—Licensing of source material. 42 U.S.C. 2014 *et seq.*, and 5841, *et seq.* (10 CFR Part 40).
—Licensing of production and utilization facilities. 42 U.S.C. 2073, *et seq.*, and 5841, *et seq.* (10 CFR Parts 50, 51 and 55).
—Disposal of high level radioactive waste. 42 U.S.C. 2021, *et seq.*, and 5842, *et seq.* (10 CFR Parts 60 and 61).
—Licensing of special nuclear material. 42 U.S.C. 2014, *et seq.*, and 5841, *et seq.* (10 CFR Part 70).
—Packaging and transportation of radioactive material. 42 U.S.C. 2073, *et seq.*, and 5841 *et seq.* (10 CFR Part 71).
—Licensing for storage of spent fuel. 42 U.S.C. 2021, *et seq.*, and 5872 *et seq.* (10 CFR Part 72).
—Reactor site criteria. 42 U.S.C. 2133, *et seq.*, and 5841, *et seq.* (10 CFR Part 100).
—Export and import of nuclear material. 42 U.S.C. 2073, *et seq.*, and 5841 (10 CFR Part 110).
—Licenses for Department of Energy demonstration reactors. 42 U.S.C. 5842 (1) and (2).
—Licenses for receipt and long-term storage of high-level radioactive wastes at Department of Energy facilities. 42 U.S.C. 5842 (3) and (4).

Tennessee Valley Authority (nuclear power plant planning; radiation monitoring).

F. Hazardous Substances

(1) Toxic, Explosive, and Flammable Materials

Department of Agriculture

• Agricultural Marketing Services (toxic materials and consumer protection).

• Animal and Plant Health Inspection Service (toxic materials in the control of plant pests, noxious weeds, animal diseases, and vectors).

• Food Safety and Inspection Service (toxic materials and consumer protection).

• Forest Service (effects of toxic materials on National Forests and Grasslands).

• Soil Conservation Service (toxic materials in the control of insects and other plant pests).

Department of Commerce

• National Bureau of Standards (toxic material measurements, standards, methods and data).

• National Oceanic and Atmospheric Administration (toxic materials in coastal and marine resources management and protection; ocean pollution research and monitoring).

Department of Defense (toxic materials in military operations).

Department of Health and Human Services

• Center for Disease Control (toxic materials and health issues).

• Food and Drug Administration (toxic materials and contamination of food).

• National Institutes of Health (toxic materials and health issues).

Department of Housing and Urban Development

• Office of Community Planning and Development (hazardous waste disposal, treatment, and compatible land use):

—Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1441, *et seq.*
—Policy guidance on problems posed by toxic chemicals and radioactive materials. (HUD Notice 79–33 of Sept. 10, 1979).
—Siting of HUD assisted projects near hazardous operations handling explosive or flammable materials. (24 CFR Part 51, Subpart C).

• Office of Housing (lead-based paint poisoning prevention; hazardous material storage and effects on property values).

Department of the Interior

• Fish and Wildlife Service (effects of toxic materials, including lead shot, on endangered species and critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources).

• Geological Survey (effects of the disposal of toxic wastes).

• Bureau of Indian Affairs (toxic materials on Indian lands).

• Bureau of Land Management (toxic materials on public lands).

• Minerals Management Service (toxic materials from outer continental shelf mineral, including oil and gas, operations):

—Discharges from outer continental shelf mineral, including oil and gas, operations. 43 U.S.C. 1331, *et seq.* (30 CFR Part 250).

• Bureau of Mines (disposal methods for selected milling and mine wastes).

• National Park Service (effects of toxic materials on National Park System areas).

• Bureau of Reclamation (effects of toxic materials on water storage and delivery projects).

• Office of Surface Mining Reclamation and Enforcement (toxic materials from surface coal mining and reclamation wastes).

Department of Labor

• Mining Safety and Health Administration (toxic materials in mining).

• Occupational Safety and Health Administration (toxic materials in the workplace):

—Hazardous and toxic materials and substances. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910, Subparts H and Z).

Department of Transportation

• Coast Guard (transportation of toxic materials by vessel; discharges to navigable waters):

—Transportation of hazardous materials by vessel. 46 U.S.C. 170, 375, 391(a) and 416(j); 49 U.S.C. 1655, 1803, 1804 and 1808(j); 50 U.S.C. 191 (33 CFR Parts 151, *et seq.*, and 160, *et seq.* (46 CFR Chapter I).
—Hazardous substance discharge in navigable waters. 33 U.S.C. 1321 (33 CFR Parts 25 and 151, *et seq.*; 46 CFR Part 542, *et seq.*).

• Federal Aviation Administration (hazardous aircraft cargo).

• Federal Highway Administration: Bureau of Motor Carrier Safety (hazardous material transportation in interstate commerce):

—Hazardous materials tables and communications regulations. (49 CFR Part 172).
—Transportation of hazardous materials—driving and parking rules. (49 CFR Part 397).

• Federal Railroad Administration (railroad transport of hazardous materials).

• Maritime Administration (port, coastal and ocean pollution from hazardous materials):

—Merchant vessels, polluting discharges, dumping, and destruction/treatment of wastes at sea. 46 U.S.C. 1101, *et seq.*

• Research and Special Programs Administration: Materials Transportation Bureau (hazardous cargo; hazardous materials in pipelines):
—Transportation of hazardous materials. 49 U.S.C. 1801, *et seq.* (49 CFR Part 171, *et seq.*, and 190, *et seq.*).
—Approval for shipments of Class A explosives. 49 U.S.C. 1707 (7).
—Permits for facilities to handle hazardous materials. 49 U.S.C. 1801, *et seq.*

Consumer Product Safety Commission (toxic consumer products and hazardous household substances):
—Consumer product and household substances regulations. 15 U.S.C. 1261, *et seq.*; 1471, *et seq.*; and 2051, *et seq.* (16 CFR Part 1000, *et seq.*).

Environmental Protection Agency (hazardous material pollution control and environmental effects):
—Permits for the treatment, storage and disposal of hazardous wastes. 42 U.S.C. 6901, *et seq.* (40 CFR Parts 122–124, 257, 270, and 271).
—Criteria for classification of hazardous waste disposal facilities and practices. 42 U.S.C. 6907(a)(3) and 6944(a); 33 U.S.C. 1345 (40 CFR Part 257).
—Identification and listing of hazardous waste. 42 U.S.C. 6921 (40 CFR Part 261).
—Standards applicable to generators and transporters of hazardous wastes and for owners and operators of hazardous waste treatment, storage and disposal facilities. 42 U.S.C. 6901, *et seq.* (40 CFR Parts 260–267).
—Preliminary notification of hazardous waste activities. 42 U.S.C. 6930 (40 CFR Parts 261.5, 262.12 and 263.11).
—National emission standards for hazardous air pollutants (NESHAP). 42 U.S.C. 1857, *et seq.* General provisions: (40 CFR Part 61).
—Hazardous substances in water. 33 U.S.C. 1251, *et seq.* (40 CFR Parts 116 and 117).
—Toxic effluent standards. 33 U.S.C. 1251, *et seq.* (40 CFR Part 129).
—Control of toxic substances in general. 15 U.S.C. 2601, *et seq.* (40 CFR Part 702, *et seq.*).
—Regulation of hazardous chemical substances and mixtures. 15 U.S.C. 2605 (40 CFR Part 750).
—Reporting of toxic substances inventory and retention of information. 15 U.S.C. 2607 (40 CFR Parts 710, 716, 761 and 763).
—Testing of chemical substances and mixtures. 15 U.S.C. 2603.

Federal Emergency Management Agency (evacuations and relocations resulting from hazardous materials released into the environment):
—Temporary evacuation and housing and permanent relocation due to hazardous substances pollution. 42 U.S.C. 9604(a)(1) and 9607 (23) and (24).

(2) Food Additives and Contamination of Food

Department of Agriculture

• Agricultural Research Service (detection of additives and contaminants in food).
• Agricultural Marketing Service (food quality standards).
• Food Safety and Inspection Service (contamination of meat and poultry products).

Department of Commerce

• National Oceanic and Atmospheric Administration (seafood quality).

Department of Health and Human Services

• Food and Drug Administration (effects of food additives and contamination on health).

Department of the Interior

• Fish and Wildlife Service (effects of contaminated food on endangered and threatened species and other Federally protected fish and wildlife).

Environmental Protection Agency (contamination of the environment and food from pesticide use and other toxic materials).

(3) Pesticides

Department of Agriculture

• Agricultural Research Service (biological controls; pesticides in food and fiber production).
• Animal Plant Health and Inspection Service (pesticides in the control of animal and plant pests and exotic noxious weeds).
• Food Safety and Inspection Service (pesticide residues and consumer protection).
• Forest Service (pesticides in the control of animal and plant pests; pesticide use on National Forests and Grasslands).
• Soil Conservation Service (pesticides in conservation systems; watershed resource protection).

Department of Commerce

• National Oceanic and Atmospheric Administration (effects of pesticides on marine life, the coastal zone, and seafood quality; ocean pollution research and monitoring).

Department of Defense

• Armed Forces Pest Management Board (pesticide use on military lands, facilities and equipment; control of disease vectors).

Department of Health and Human Services

• Center for Disease Control (effects of pesticides on health).
• Food and Drug Administration (pesticide contamination of food).

Department of the Interior

• Fish and Wildlife Service (pesticide use on National Wildlife Refuge and National Fish Hatchery System lands; effects of pesticides on endangered species and their critical habitats, and other fish and wildlife resources).
• Geological Survey (effects of pesticides on water quality).
• Bureau of Indian Affairs (pesticide use on Indian lands).
• Bureau of Land Management (pesticide use on public lands).
• Bureau of Reclamation (pesticide use on irrigated lands and other project lands, facilities and rights-of-way).
• National Park Service (pesticide use in National Park System areas).

Department of Labor

• Occupational Safety and Health Administration (worker exposures during manufacture of pesticides):
—Hazardous and toxic materials and substances. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910, Subparts H and Z).

Department of Transportation

• Coast Guard (transportation of pesticides by vessel):
—Permits for transportation of hazardous substances by vessel. 46 U.S.C. 170, and 391a (33 CFR Parts 151, *et seq.*, and 160, *et seq.*; 46 CFR Chapter I).
• Federal Aviation Administration (transport and use of pesticides by aircraft).
• Federal Highway Administation: Bureau of Motor Carrier Safety (pesticide transport in interstate commerce):
—Hazardous materials tables and communications regulations. (49 CFR Part 172).
• Federal Railroad Administration (transport of pesticides by railroads).
• Research and Special Programs Administration: Materials Transportation Bureau (transport of pesticides):
—Transportation of hazardous materials. 49 U.S.C. 1801, *et seq.* (49 CFR Part 171, *et seq.*).

Environmental Protection Agency (pollution control and environmental effects of pesticides):
—Pesticide programs in general. 7 U.S.C. 136, *et seq.*; 21 U.S.C. 346a (40 CFR Part 162, *et seq.*).
—Certification of pesticide applicators. 7 U.S.C. 136b (40 CFR Part 171).
—Registration of pesticides. 7 U.S.C. 136a (40 CFR Part 162).
—Experimental pesticide use permits. 7 U.S.C. 136c (40 CFR Part 172).
—Establishment of pesticide tolerances. 21 U.S.C. 346a (40 CFR Part 180 and 21 CFR Part 193).
—Pesticide disposal and transportation. 7 U.S.C. 136q (40 CFR Part 165).
—Worker protection standards for agricultural pesticides. 7 U.S.C. 136 (40 CFR Part 170).
—Emergency exemptions for pesticides use. 7 U.S.C. 136p (40 CFR Part 166).

Tennessee Valley Authority (pesticide use on public lands and waters in Tennessee Valley region).

II. ENERGY

A. Electric Power (Development, Generation, Transmission, and Use)

Department of Agriculture

• Farmers Home Administration (small hydro, solar, and wind projects):
—Approval of plans and specifications for FMHA funded projects. 7 U.S.C. 1942 (7 CFR Parts 1924, 1942 and 1944).
• Forest Service (power development in National Forests and Grasslands):
—Permits, easements, and leases for power transmission, road, and hydro

developments. 16 U.S.C. 522, *et seq.*; 43 U.S.C. 1761 (36 CFR Part 251.50, *et seq.*).
—Permits for commercial use of existing roads. 16 U.S.C. 537 (37 CFR Part 212).
—Consultations regarding power developments on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Rural Electrification Administration (power development in and for rural areas):
—Electrical generation and transmission projects. 7 U.S.C. 901 *et seq.* (7 CFR Part 1700, *et seq.*

Department of Commerce

• National Oceanic and Atmospheric Administration (coastal energy facility planning and siting):
—Approval of licenses for siting, design, and operation of ocean-thermal energy facilities. 42 U.S.C. 9101, *et seq.* (15 CFR Part 981).

Department of Defense

• Army Corps of Engineers (hydroelectric projects; effects of power development on navigable waters):
—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Economic Regulatory Administration (regulation of power plants and other major fuel-burning installations):
—Exemptions from prohibitions against the burning of natural gas and petroleum in power plants and major fuel burning installations. 42 U.S.C. 7101 and 8301 (10 CFR Part 500, *et seq.*).
—Transmission of electric energy to a foreign country. 16 U.S.C. 824a(e); E.O. 10485 and E.O. 12038 (18 CFR Parts 32.30–32.38 and 10 CFR Parts 205.300–205.309).

• Office of Policy, Safety, and Environment (general energy policies, programs and projects).

• Alaska Power Administration (hydroelectric generation and transmission systems in Alaska).

• Bonneville Power Administration (electric transmission systems in the Pacific northwest).

• Southeastern Power Administration (electric transmission systems in the southeastern States).

• Southwestern Power Administration (electric transmission systems in the southwestern States).

• Western Area Power Administration (electric transmission systems in the western States).

Department of Housing and Urban Development

• Office of Community Planning and Development (energy policy; demonstration programs; research; assistance for community and economic development; assistance for energy efficiency):
—Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).

• Office of Housing (energy factors in rehabilitation and retrofitting).

• Office of Policy Development and Research (building energy technology; urban energy studies).

• Office of Solar Energy and Conservation (new technologies and research).

Department of the Interior

• Fish and Wildlife Service (effects of power development, including transmission line and tower construction, on endangered species and their critical habitats. National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):
—Easements/permits for transmission line rights-of-way across National Wildlife Refuge and National Fish Hatchery System land. For refuges—16 U.S.C. 668dd; for hatcheries—43 U.S.C. 931 c and d (50 CFR Part 29.21).
—Permits for rights-of-way on National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k)–3 and 742(f) (50 CFR Part 96).
—For additional jurisdictional responsibilities, see PART IV. C— Water Resources Development.

• Geological Survey (geologic and hydrologic siting constraints for power developments; National Water Summary).

• Bureau of Indian Affairs (power development on Indian lands):
—Approval of leases and permits for Indian lands. 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).
—Rights-of-way over Indian lands. 25 U.S.C. 311–321 and 323–328 (25 CFR Part 169).
—Specific power systems. (25 CFR Parts 175–177).

• Bureau of Land Management (power development on public lands):
—Easements/permits for rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800–2887).
—Exchange of Federal lands to facilitate energy development. 43 U.S.C. 1716 (43 CFR Parts 2200–2270).

• National Park Service (effects of power development on National Park System lands; on historic archeologic and architectural sites; and on recreational values):
—Easements for rights-of-way across National Park system land. 16 U.S.C. 5 (36 CFR Parts 7 and 14).
—Consultations about extent to which proposed recreational developments at hydroelectric projects conform to and are in accord with the Statewide Comprehensive Outdoor Recreation Plans. 16 U.S.C. 460.
—Consultations regarding power developments on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Bureau of Reclamation (hydroelectric power development in the 17 contiguous western states, impact of power development on State water laws; analysis of cost sharing).
—Easements/permits for powerline rights-of-way. 43 U.S.C. 3871.

Department of Labor

• Occupational Safety and Health Administration (workers safety and health issues):
—Construction, transmission and distribution facilities. 29 U.S.C. 655, *et seq.* (29 CFR Part 1926, Subpart V).

Department of Transportation

• Federal Highway Administration (highways and electric utility facilities):
—Relocation and accommodation of utility facilities on highway rights-of-way. 23 U.S.C. 109(1), 116 and 123 (23 CFR Part 645).

Advisory Council on Historic Preservation (effects of power developments on historic properties).

Environmental Protection Agency (pollution control and environmental effects of power development):
—For jurisdictional responsibilities see PART I.A.—Air Quality, PART I.B.—Water Quality, and PART I.C.—Waste Disposal on Land.

Federal Emergency Management Agency (review and approval of state and local nuclear incident emergency response plans).

Federal Energy Regulatory Commission (hydroelectric power projects; electric transmission; electric supply; facility siting):
—Regulation of interconnection of electric transmission facilities and regulation of enlargement of electric transmission facilities. 16 U.S.C. 824–825K (18 CFR Part 32).
—Regulation of the development of water-power including the licensing of non-Federal hydroelectric power projects. 16 U.S.C. 791–825r (18 CFR Parts 4–25, 36, 131 and 141).
—Application for order directing the establishment of physical connection facilities. 16 U.S.C. 834(b).
—Withdrawal of Federal lands for power and powersite development purposes. 16 U.S.C. 818 (43 CFR Part 2344, *et seq.*).

International Boundary and Water Commission, United States Section (hydroelectric power installations on the Rio Grande).

Nuclear Regulatory Commission (nuclear power development in general):
—Licensing of production and utilization facilities. 42 U.S.C. 2073, *et seq.*, and 5841, *et seq.* (10 CFR Parts 50 and 51).
—Nuclear power reactor operators' licenses. 42 U.S.C. 2137, *et seq.*, and 5841, *et seq.* (10 CFR Part 55).
—Reactor site criteria. 42 U.S.C. 2133, *et seq.*, and 5841, *et seq.* (10 CFR Part 100).
—For other jurisdictional responsibilities, see PART I.E.—Radiation.

Tennessee Valley Authority (power development in the Tennessee Valley Region).

B. Oil and Gas (Development, Extraction, Refining, Transport and Use)

Department of Agriculture

• Forest Service (effects of oil and gas development on National Forests and Grasslands):

—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471–472, 478, 495, 497–498, 528, 531–538, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).

Department of Commerce

• National Oceanic and Atmospheric Administration (effects of oil and gas development and coastal and marine resources, management, and protection).

Department of Defense

• Army Corps of Engineers (effects of oil and gas development on navigable waters):

—For jurisdictional responsibilities, see PART I.B—Water Quality.

Department of Energy

• Economic Regulatory Administration (regulation of power plants and other major fuel-burning installations):

—Exemptions from prohibitions against the burning of petroleum in power plants and major fuel-burning installations. 42 U.S.C. 7101 and 8301 (10 CFR Part 500, *et seq.*).

• Office of Policy, Safety, and Environment (general energy policies, programs, and projects).

Department of Housing and Urban Development

• Office of Community Planning and Development (health and safety standards; distance factors for pipeline, storage, and production facilities including sour gas wells; assistance for community and economic development; assistance to conserve petroleum and natural gas energy efficiency):

—Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1441, *et seq.*

—Siting of HUD assisted projects near hazardous operations handling petroleum products or chemicals of an explosive or flammable nature. (24 CFR Part 51, Subpart C).

—Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).

• Office of Housing (siting standards and effects on housing values and marketability).

Department of the Interior

• Fish and Wildlife Service (effects of oil and gas development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

—Permits for oil and gas pipeline rights-of-way across National Wildlife Refuge and National Fish Hatchery Systems lands. For refuges—16 U.S.C. 668dd; for hatcheries—43 U.S.C. 931c and d (50 CFR Part 29.21).

—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k)-3 and 742(f) (50 CFR Part 96).

• Geological Survey (oil and gas resources in general).

• Bureau of Indian Affairs (oil and gas development on Indian lands):

—Leases and permits on Indian lands. 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).

—Rights-of-way over Indian lands. 25 U.S.C. 311–321 and 323–328 (25 CFR Part 169).

—Mining leases (including oil and gas) on Indian lands. 25 U.S.C. 376, 396, 476–477 and 509 (25 CFR Parts 211–215 and 226–227).

• Bureau of Land Management (oil and gas development on public lands):

—Leases for oil and gas deposits:

(a) Public domain lands. 30 U.S.C. 181, *et seq.*; 43 CFR Parts 3100, *et seq.*, and 3160.

(b) Acquired lands. 30 U.S.C. 351–359 (43 CFR Parts 3100, *et seq.*, and 3160).

(c) In and under railroad and other rights-of-way acquired under laws of the United States. 30 U.S.C. 301–306 (43 CFR Part 3100).

(d) Indian lands. 25 U.S.C. 396a, *et seq.* (25 CFR Parts 211, 213, 226 and 227).

—Leases and land exchanges for oil shale, native asphalt, solid and semisolid bitumen and bituminous rock. For leases—30 U.S.C. 241 (43 CFR Part 3500); for exchanges—43 U.S.C. 1716 (43 CFR Parts 2200–2270).

—Easements/permits for oil and gas pipeline rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800–2887).

—Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapters 2000 and 3000).

—Disposal of government royalty oil (non-OCS oil). 30 U.S.C. 189, 192 and 359 (30 CFR Part 208).

—Exchange of non-OCS Federal lands with oil and gas deposits. 43 U.S.C. 1716 (43 CFR Parts 2200–2207).

• Minerals Management Service (oil and gas development on the outer continental shelf):

—Leases for minerals on the outer continental shelf. 43 U.S.C. 1331–1343 (30 CFR Parts 250, 251, 252 and 256).

—Permits/easements for rights-of-way for "common carrier" oil gas pipelines on the outer continental shelf. 43 U.S.C. 1331 (30 CFR Part 256, Subpart N).

—Permits for exploration and development activities on Federal leases on the outer continental shelf. 43 U.S.C. 1331, *et seq.* (30 CFR Parts 250 and 251).

—Easements/rights-of-way for gathering pipelines, artificial islands, platforms, and other fixed structures on any Federal or State outer continental shelf oil and gas lease. 43 U.S.C. 1334–1335 (30 CFR Parts 250.18–250.19).

—Applications for purchase of government royalty oil from the outer continental shelf. 43 U.S.C. 1334 (30 CFR Part 225a).

—Permits for geological and geophysical exploration on the outer continental shelf. 43 U.S.C. 1334 and 1340 (30 CFR Part 251).

—Drilling permits. 43 U.S.C. 1351.

• Bureau of Mines (environmental, health, and safety aspects of mining oil, tar sands, and oil shale; coalbed methane control and recovery; helium conservation).

• National Park Service (effects of oil and gas development on National Park System areas on historic, archeological, and architectural sites, and on recreational values):

—Permits for oil and gas operations on National Park system areas. 16 U.S.C. 1 (36 CFR Part 9).

—Determination of significance of effects for combined hydrocarbon lease conversions in Glen Canyon NRA. (43 CFR Parts 3140.7 and 3141.2).

• Bureau of Reclamation (effects of oil and gas development on water storage and delivery systems):

—Easements/permits for pipeline rights-of-way. 43 U.S.C. 3871.

Department of Labor

• Occupational Safety and Health Administration (general worker safety and health issues):

—Oil and gas well drilling. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910.270).

Department of State (international aspects of oil and gas development):

—Facilities for export/import of petroleum and petroleum products. E.O. 11423.

Department of Transportation

• Coast Guard (oil and gas transport by vessel):

—Tank vessel regulation. 46 U.S.C. 391(a) (33 CFR Part 157).

—Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).

—Construction and alteration of bridges for pipelines over navigable waters. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*, and 535 (33 CFR Part 114, *et seq.*).

—Outer continental shelf structures. 43 U.S.C. 1331 (33 CFR Part 140, *et seq.*).

• Maritime Administration (effects of oil and gas development on port, coastal and ocean pollution):

—Merchant vessels, including liquefied natural gas vessels. 42 U.S.C. 1101, *et seq.* (46 CFR Part 250, *et seq.*).

—Port operations, including loading/unloading of liquefied natural gas vessels. 42 U.S.C. 867 (46 CFR Part 346, *et seq.*).

• Federal Highway Administration (pipelines and highway rights-of-way):

—Relocation and accommodation of pipelines on highway rights-of-way. 23 U.S.C. 109(1), 116 and 123 (23 CFR Part 645).

• Federal Railroad Administration (railroad transport of oil and gas).

• Research and Special Programs Administration: Materials Transportation Bureau (pipeline safety; oil and gas shipments; natural gas marine terminals):

—Pipeline safety. 49 U.S.C. 1671, *et seq.*, and 2001, *et seq.* (49 CFR Part 190, *et seq.*).

Advisory Council on Historic Preservation (effects of oil and gas development on historic properties):

Environmental Protection Agency (pollution control and environmental effects of oil and gas development):

—For jurisdictional responsibilities, see PART I.A.—Air Quality, PART I.B.—Water Quality, and PART I.C.—Waste Disposal on Land.

Federal Energy Regulatory Commission (charges/rates for transportation of oil and gas by pipeline; transportation, storage, and sale of natural gas):

—Certificates for natural gas facilities (underground storage fields, LNG facilities, and transmission pipeline facilities); sale, exchange and transportation of gas;

abandonment of facilities and curtailment of natural gas service; authorization to import and export natural gas. 15 U.S.C. 717–717(w); E.O. 10485 and E.O. 12038 (18 CFR Part 152, *et seq.*).

—Authorization compelling the expansion, improvement or connection of natural gas facilities. 15 U.S.C. 717f(a) (18 CFR Part 156).

Interstate Commerce Commission (regulation of petroleum and natural gas carriers).

C. Coal (Development, Mining, Conversion, Processing, Transport and Use)

Department of Agriculture

• Forest Service (effects of coal development on National Forests and Grasslands):

—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471–472, 478, 495, 497–498, 525, 528, 531–538, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).

—Coal leasing. 30 U.S.C. 201–352.

—Surface coal mining operations. 30 U.S.C. 1272.

• Rural Electrification Administration (coal development in relation to rural electrification):

—Financial assistance for purchase of coal mines and mining facilities. 7 U.S.C. 901, *et seq.* (7 CFR Part 1700, *et seq.*).

• Soil Conservation Service (abandoned rural mined land, mine reclamation, and transportation):

—Reclamation of rural abandoned mined land. 30 U.S.C. 1201, *et seq.* (7 CFR Part 632).

Department of Commerce

• National Oceanic and Atmospheric Administration (atmospheric dispersion of effluents; acid rain; management and protection of coastal and marine resources; air and water pollution from mining; offshore and coastal mining; port planning).

Department of Defense

• Army Corps of Engineers (effects of coal development on navigable waters):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Economic Regulatory Administration (regulation of powerplants and other major fuel-burning installations):

—Exemption from prohibitions against burning of natural gas and oil in powerplants and major fuel-burning installations. 42 U.S.C. 7101 and 8301 (10 CFR Part 500, *et seq.*).

• Office of Policy, Safety, and Environment (general energy policies, programs, and projects).

• Office of Fossil Energy (coal research, coal liquification projects, and emerging coal technologies).

Department of Housing and Urban Development

• Office of Community Planning and Development (assistance for community impacts due to rapid development):

—Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).

• Office of Housing (subsidence from mining operations and soil factors related to housing).

Department of the Interior

• Fish and Wildlife Service (effects of coal development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

—Permits for use of National Wildlife Refuge and National Fish Hatchery System lands. For refuges—16 U.S.C. 668 dd and ee; for hatcheries—43 U.S.C. 931 c and d (50 CFR Parts 25.41 and 29.21).

—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k–3) and 742(f) (50 CFR Part 96).

• Geological Survey (coal resources in general; hydrologic effects of coal mining and reclamation).

• Bureau of Indian Affairs (coal development on Indian lands):

—Leases and permits on Indian lands. 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).

—Rights-of-way over Indian lands. 25 U.S.C. 311–321 and 328 (25 CFR Part 169).

—Mining leases on Indian lands. U.S.C. 356, 396, 476–477 and 509 (25 CFR Parts 211–215 and 226–227).

—Surface exploration and reclamation. 25 U.S.C. 355, 396, 473 and 501–502 (25 CFR Part 216).

• Bureau of Land Management (coal development on public lands):

—Exploration licenses for coal deposits on unleased lands. 30 U.S.C. 181 and 201(b) (43 CFR Part 3400).

—Leases/permits for recovery of coal deposits. 30 U.S.C. 181, *et seq.*, 201b and 202a; 43 U.S.C. 1701, *et seq.* (43 CFR Parts 3400 and 3480).

—Easements/lease/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapters 2000 and 3000).

—Permits to mine coal for domestic needs. 30 U.S.C. 208 (43 CFR Part 3440).

—Easements/permits for rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800–2887).

—Exchange of Federal lands with coal or uranium deposits. 43 U.S.C. 1716 (43 CFR Parts 2200–2270).

• Bureau of Mines (mining technology, health and safety, subsidence prediction and control, and land reclamation).

• National Park Service (effects of coal development on National Park System areas and on historic and recreational values):

—Leases, permits and licenses for mining on National Park System lands involved in Wild and Scenic River Systems. 16 U.S.C. 1280.

—Access permits for mining activity within the National Park System. 16 U.S.C. 1902 and 1908 (36 CFR Part 9).

—Easements for rights-of-way across National Park System land. 16 U.S.C. 1, *et seq.* (36 CFR Part 9, *et seq.*).

• Bureau of Reclamation (effects of coal development on water storage and delivery projects):

—Easement/permits for access rights-of-way. 43 U.S.C. 3871.

• Office of Surface Mining Reclamation and Enforcement (surface coal mining and reclamation; general effects of surface coal mining operations):

—Identification of certain lands considered unsuitable for surface coal mining operations. 30 U.S.C. 1272 (30 CFR Chapter 7, Subchapter F).

—Permits for coal exploration operations on Federal lands within an approved mining permit area, and, if there is no approved State Coal Mining Regulatory Program, on non-Federal and non-Indian lands. 30 U.S.C. 1262 (30 CFR Chapter VII and 43 CFR Part 3400).

—Permits for surface coal mining and reclamation operations (includes underground mines with surface effects) on Federal lands except the States may do this when there is both an approved State Coal Mining Regulatory Program and a Cooperative Agreement between the State and the Secretary of the Interior. 30 U.S.C. 1256, 1267, 1266, 1271 and 1273 (30 CFR Chapter VII).

—Permits for surface coal mining and reclamation operations (includes underground mines with surface effects) on non-Federal lands in those States where there is no approved State Coal Mining Regulatory Program. 30 U.S.C. 1256–1262 (30 CFR Chapter VII).

—Permits for surface coal mining and reclamation operations (includes underground mines with surface effects) on Indian lands. 30 U.S.C. 1300 (30 CFR Chapter VII and 25 CFR Part 216).

—Grants for reclamation of abandoned mined lands. 30 U.S.C. 1231–1235 and 1237–1243 (30 CFR Chapter VII).

Department of Labor

• Mining Safety and Health Administration (safety and health issues in mining operations).

• Occupational Safety and Health Administration (worker safety and health issues):

—Coal tar pitch volatiles. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910.1002).

Department of State (international aspects of coal development):

—Facilities for export/import of coal. E.O. 11423.

Department of Transportation

• Coast Guard (vessel transport of coal):

—Construction and alterations of bridges and causeways over navigable waters. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*, and 535 (33 CFR Part 114, *et seq.*).

—Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).

• Federal Highway Administration (coal haul roads; effects of railroad coal transport on roads and streets).

• Federal Railroad Administration (railroad transport of coal).

• Maritime Administration (bulk shipping of coal and other minerals in the inland waterways, domestic oceans, Great Lakes, and U.S. foreign trade).

Advisory Council on Historic Preservation (effects of coal development on historic properties).

Environmental Protection Agency (pollution control and environmental effects of coal development):

—For jurisdictional responsibilities see PART I. A.—Air Quality, PART I. B.—Water Quality, and PART I. C.—Waste Disposal on Land.

Interstate Commerce Commission (regulation of coal rail-carriers and rates; impacts from railroad construction for moving coal, including downline impacts).

Tennessee Valley Authority (coal development in the Tennessee Valley region).

D. Uranium (Exploration, Mining, Transport and Use)

Department of Agriculture

• Forest Service (uranium in National Forests and Grasslands):

—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471–472, 478, 495, 497–498, 525, 528, 531–538, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).

—Surface use of public domain lands under U.S. mining laws. 16 U.S.C. 478 and 551 (36 CFR Part 228).

—Mineral development on acquired lands. For solid (hardrock) minerals—16 U.S.C. 520 (43 CFR Part 3500); for phosphate, sodium, potassium and sulphur—30 U.S.C. 351, *et seq.*

• Soil Conservation Service (abandoned mine land, mine reclamation, and transportation).

Department of Commerce

• National Oceanic and Atmospheric Administration (air and water pollution from mining; offshore and coastal mining; port planning; management and protection of coastal and marine resources):

—Approval of licenses for deep seabed hard mineral exploration and development. 30 U.S.C. 1401, *et seq.* (15 CFR Part 970).

Department of Defense

• Army Corps of Engineers (effects of uranium mining on navigable waters):

—For jurisdictional responsibilities, see PART I.B.—Water Quality.

Department of Energy

• Office of Policy, Safety, and Environment (general energy policies, programs and projects).

• Office of Civilian Radioactive Waste Management (management of commercial radioactive wastes).

• Office of Defense Programs (management of Defense radioactive wastes)

• Office of Nuclear Energy (nuclear energy in general).

Department of Housing and Urban Development

• Office of Housing (subsidence from mining operations and soil factors related to housing).

Department of the Interior

• Fish and Wildlife Service (effects of uranium mining on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

—Easements/permits on National Wildlife Refuge and National Fish Hatchery System land. 16 U.S.C. 668 dd, *et seq.*; 43 U.S.C. 931 c and d (50 CFR Parts 25.41 and 29.21).

—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k–3) and 742(f) (50 CFR Part 96).

• Geological Survey (uranium resources in general).

• Bureau of Indian Affairs (uranium on Indian lands):

—Leases and permits on Indian lands. 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).

—Rights-of-way over Indian lands. 25 U.S.C. 311–321 and 323–328 (25 CFR Part 169).

—Mining leases on Indian lands. 25 U.S.C. 356, 396, 476–477 and 509 (25 CFR Parts 211–215 and 226–227).

—Surface exploration and reclamation. 25 U.S.C. 355, 396, 473 and 501–502 (25 CFR Part 216).

• Bureau of Land Management (uranium on public lands):

—Exchange of Federal lands with coal or uranium deposits. 43 U.S.C. 1716 (43 CFR Parts 2200–2270).

—Leases for uranium exploration and mining. 30 U.S.C. 181, 351–359 and 1201, *et seq.* (43 CFR Parts 3500–3800).

—Approval of plan of operations in connection with uranium leases. 30 U.S.C. 22, *et seq.*; 30 U.S.C. 181, *et seq.*; and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 3570 and 3802).

—Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapter 2000 and 3000).

—Exploration licenses to explore for uranium and other leasable minerals on unleased lands. 30 U.S.C. 181, *et seq.*, and 201(b) (43 CFR Parts 3400 and 3480).

—Leases, permits and licenses for mining in Wild and Scenic River System areas. 16 U.S.C. 1280 (each area has special Federal Regulations).

—Concurrence for mining use of public lands withdrawn or reserved for power development or for a power site. 30 U.S.C. 621 (43 CFR Part 3730).

—Easements/permits for rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800–2900).

• Bureau of Mines (uranium mining in general).

• National Park Service (effects of uranium mining on public park and recreation values; on historic, archeological and architectural sites; and on National Park System areas):

—Permits, leases, and easements for rights-of-way. 16 U.S.C. 1, *et seq.* (36 CFR Part 9, *et seq.*).

—Leases, permits and license for mining on National Park System lands involved in Wild and Scenic River Systems. 16 U.S.C. 1280.

—Access permits for mining activity within the National Park System. 16 U.S.C. 1902 and 1908; 30 U.S.C. 21, *et seq.* (36 CFR Part 9).

• Bureau of Reclamation (effects of uranium mining on water storage and delivery projects):

—Easements/permits for access, pipeline, and other rights-of-way. 43 U.S.C. 3871.

Department of Labor

• Mining Safety and Health Administration (safety and health issues in mining operations).

• Occupational Safety and Health Administration (general worker safety and health issues):

—General industrial, and construction standards. 29 U.S.C. 655, *et seq.* (29 CFR Parts 1910 and 1926).

Department of State (international aspects of uranium mining):

—Facilities for export/import of minerals. E.O. 11423.

Department of Transportation

• Coast Guard (vessel transport of minerals):

—Construction and alterations of bridges and causeways over navigable waters. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*, and 535 (33 CFR Part 114, *et seq.*).

—Ports and waterways safety. 33 U.S.C 1221 (33 CFR Part 160, *et seq.*).

Advisory Council on Historic Preservation (effects of uranium mining on historic properties).

Environmental Protection Agency (pollution control and environmental effects of uranium mining):

—For jurisdictional responsibilities, see Part I.A.—Air Quality, PART I. B.—Water Quality, PART I. C.—Waste Disposal on Land, and PART I. E.—Radiation.

Nuclear Regulatory Commission (nuclear power development in general):

—Licensing uranium milling operations. 42 U.S.C. 2091 *et seq.* (10 CFR Part 40).

Tennessee Valley Authority (uranium mining and milling).

E. Geothermal Resources (Development, Transmission, and Use)

Department of Agriculture

• Forest Service (effects of geothermal resource development on National Forests and Grasslands):

—Leases for geothermal resource developments. 30 U.S.C. 1014.

—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471–472, 478, 495, 497–498, 525, 538, 531–538, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).

Department of Commerce

• National Oceanic and Atmospheric Administration (air and water pollution from geothermal development).

Department of Defense

• Army Corps of Engineers (effects of geothermal development on navigable waters):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Office of Policy, Safety, and Environment (general energy policies, programs and projects).

• Office of Conservation and Renewable Energy (research and development on geothermal energy sources).

Department of the Interior

• Fish and Wildlife Service (effects of geothermal development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

—Easements/permits on National Wildlife Refuge and National Fish Hatchery System land. For refuges—16 U.S.C. 668 dd, *et seq.*, *for hatcheries—43 U.S.C. 931 c and d (50 CFR Parts 25.41 and 29.21).*

—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k–3) and 742(f) (50 CFR Part 96).

• Geological Survey (geothermal resources in general).

• Bureau of Indian Affairs (geothermal development on Indian lands):

—Leases and permits on Indian lands. 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).

—Rights-of-way over Indian lands, 25 U.S.C. 311–321 and 323–328 (25 CFR Part 169).

• Bureau of Land Management (geothermal development on public lands):

—Permits for geothermal resources exploration. 30 U.S.C. 1023 (43 CFR Part 3260).

—Leases for geothermal resources recovery. 30 U.S.C. 1001–1025 (43 CFR Parts 3200–3250, 3260 and 3280).

—Licenses for geothermal powerplants. 30 U.S.C. 1001–1025 (43 CFR Part 3250).

—Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C 1732 (43 CFR Subchapter 2000 and 3000).

Easements/permits for rights-of-way. 30 U.S.C. 185 and 43 U.S.C 1701, *et seq.* (43 CFR Parts 2800–2900).

• Bureau of Mines (recovery of mineral values in geothermal operations; materials for construction of geothermal facilities).

• National Park Service (effects of geothermal development on public park and recreation values, on historic, archeological and architectural sites, and on National Park System areas).

• Bureau of Reclamation (alternative energy studies; coordination of geothermal operations with hydroelectric generation):

—Easements/permits for access, pipeline, and other rights-of-way. 43 U.S.C. 3871.

Department of Labor

• Occupational Safety and Health Administration (worker safety and health issues):

—General industrial and construction standards. 29 U.S.C. 655, *et seq.* (29 CFR Parts 1910 and 1926).

Advisory Council on Historic Preservation (effects of geothermal development on historic properties).

Environmental Protection Agency (pollution control and environmental effects of geothermal development):

—For jurisdictional responsibilities, see PART I. A.—Air Quality, PART I. B.—Water Quality, and PART I. C.—Waste Disposal on Land.

F. Other Energy Sources—Solar, Wind, Biomass, etc. (Development and Use)

Department of Agriculture

• Agricultural Research Service (utilization of biomass, wastes, solar, and wind energy sources in agricultural production).

• Farmers Home Administration (small hydro, solar, and wind projects):

—Approval of plans and specifications for FMHA-funded projects. 7 U.S.C. 1942 (7 CFR Parts 1924, 1942 and 1944).

• Forest Service (uses and rights-of-way on National Forests and Grasslands):

—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471–472, 478, 495, 497–498, 525, 528, 531–538, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).

• Office of Energy (general energy policies related to agriculture):

—Solar and wind energy facility siting, 16 U.S.C. 470 (36 CFR Part 200).

Department of Commerce

• National Oceanic and Atmospheric Administration (coastal energy facility planning and siting; basic weather data and research):

—Approval of licenses for siting, design, and operation of ocean-thermal energy facilities, 42 U.S.C. 9101, *et seq.* (15 CFR Part 981).

Department of Energy

• Office of Policy, Safety, and Environment (general energy policies, programs and projects).

• Office of Conservation and Renewable Energy (research and development programs on alternative energy sources).

Department of Housing and Urban Development

• Office of Community Planning and Development (alternative energy policy, including district heating and cogeneration; demonstration programs; research; technical assistance and feasibility studies; building rehabilitation and retrofit; assistance for community and economic development):

—Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).

—Urban Development Action Grant Handbook, HUD 6050.1 of Oct. 1982.

• Solar Energy and Energy Conservation Bank (assistance for energy conservation improvements to residential, commercial, and agricultural buildings, including solar energy systems):

—Energy Security Act of 1980. 12 U.S.C. 3601, *et seq.* (24 CFR Part 1800, *et seq.*).

Department of the Interior

• Fish and Wildlife Service (effects of alternative energy development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources).

• Geological Survey (geology and hydrologic siting constraints for alternative energy development).

• Bureau of Indian Affairs (alternative energy development on Indian lands).

• Bureau of Land Management (alternative energy development on public lands):

—Licenses for synthetic liquid fuel facilities. 30 U.S.C. 323.

—Solar energy facility siting. 43 U.S.C. 1761.

• National Park Service (effects of alternative energy development on park and recreation values on historic, archeological and architectural sites, and on National Park System areas).

• Bureau of Reclamation (alternative energy studies; coordination of operations with hydroelectric generation).

Department of Labor

• Occupational Health and Safety Administration (worker safety and health issues):

—General industrial and construction standards. 29 U.S.C. 655, *et seq.* (29 CFR Parts 1910 and 1926).

Advisory Council on Historic Preservation (effects of alternative energy development on historic properties).

Environmental Protection Agency (pollution control and environmental effects of alternative energy development):

—For jurisdictional responsibilities, see PART I.—POLLUTION CONTROL.

G. Energy Conservation

Department of Agriculture

• Extension Service (rural family energy conservation).

• Farmers Home Administration (energy conservation in relation to agency funded projects).

• Forest Service (energy conservation in National Forests and Grasslands).

• Office of Energy (general agricultural energy policies).

• Rural Electrification Administration (energy conservation in relation to power development in rural areas).

Department of Commerce

• National Bureau of Standards (energy efficiency objectives and standards).

• National Oceanic and Atmospheric Administration (heating fuel usage forecasting; weather forecasting in relation to energy conservation).

Department of Energy

• Office of Policy, Safety, and Environment (general energy policies, programs and projects).

• Office of Conservation and Renewable Energy (energy efficiency of transportation, building, and industrial systems; assistance programs for energy planning and conservation):

—Energy conservation standards for new buildings. 42 U.S.C. 6834 (10 CFR Part 450, *et seq.*).

• Bonneville Power Administration (energy conservation studies in the Pacific Northwest):

—Regional planning and conservation. 16 U.S.C. 839, *et seq.*

Department of Housing and Urban Development

• Office of Community Planning and Development (energy conservation policy; demonstration and research programs; technical assistance; assistance for community and neighborhood development, economic development, public facilities, residential and commercial rehabilitation and retrofit for energy efficiency; comprehensive energy use strategies):

—Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).

—Urban Development Action Grant Handbook. HUD 6050.1 of Oct. 1982.

—Housing Act of 1937. 42 U.S.C. 1401, *et seq.*

• Solar Energy and Energy Conservation Bank (assistance for energy conservation improvements to residential, commercial, and agricultural buildings, including solar energy systems):

—Energy Security Act of 1980. 12 U.S.C. 3601, *et seq.* (24 CFR Part 1800, *et seq.*).

• Office of Manufactured Housing and Construction Standards (building materials; new materials standards and performance criteria).

• Office of Policy Development and Research (building energy technology).

• Office of Public Housing (energy factors in rehabilitation and retrofitting; urban energy studies).

Department of the Interior

• Fish and Wildlife Service (energy conservation in National Wildlife Refuge and National Fish Hatchery System areas, and effects of energy conservation projects on endangered species and critical habitats).

• Bureau of Indian Affairs (energy conservation on Indian lands).

• Bureau of Land Management (energy conservation on public lands).

• National Park Service (energy conservation in National Park System areas; effects of energy conservation on historic, archeological, and architectural sites, and on park and recreation values).

• Bureau of Reclamation (energy conservation in relation to hydroelectric power development, and water storage and delivery systems).

Department of Transportation

• Federal Aviation Administration (aviation energy conservation and energy-use assessments).

• Federal Highway Administration (energy conservation in relation to highway systems).

• National Highway Traffic Safety Administration (fuel economy standards for motor vehicles):

—Fuel economy standards. 15 U.S.C. 2001, *et seq.* (49 CFR Parts 525–527, 531, 533 and 537.

• Research and Special Programs Administration: Transportation Systems Center (energy conservation and transportation systems in general).

• Urban Mass Transportation Administration (energy conservation in relation to urban transportation systems).

Advisory Council on Historic Preservation (effects of energy conservation on historic properties).

Interstate Commerce Commission (assessment of differences in energy efficiencies between transport modes).

Tennessee Valley Authority (energy conservation in general).

III. LAND USE

A. Land Use Planning, Regulation, and Development

Department of Agriculture

• Agricultural Research Service (effects of agricultural practices on resource quality and off-farm pollution).

• Agricultural Stabilization and Conservation Service (Federally subsidized agricultural conservation and land use programs).

• Economic, Research Service and Statistical Reporting Service (data on natural resources; analysis of the economic impacts of agriculturally related pollution and resource degradation; interactions of environmental programs with other Federal farm policy objectives).

• Extension Service (rural and community development).

• Farmers Home Administration (farmland protection; rural and community development):

—Farmland Protection Policy Act. Secretary's Memorandum 9500–2, *Statement on Land Use Policy* (7 CFR Part 1940).

• Forest Service (effects of adjacent land uses on National Forests and Grasslands):

—Coordination with other public planning efforts. (36 CFR Part 219.7).

• Soil Conservation Service (land use data; soil and water resource condition data and related natural resources data; resource management technology and technical planning assistance for watershed protection):

—Soil, water, and related resource data. 7 U.S.C. 1010a.

—Program for land conservation and utilization. 7 U.S.C. 1011(e).

Department of Commerce

• National Oceanic and Atmospheric Administration (management and protection of coastal and marine resources).

Department of Defense

• Army Corps of Engineers (land use in flood plains and wetlands):

—For jurisdictional responsibilities see PART I.B.—Water Quality.

• Department of the Air Force (land use around military airfields).

Department of Energy

• Office of Policy, Safety, and Environment (effects of energy policies, programs, and projects on adjacent land uses).

Department of Housing and Urban Development

• Office of Community Planning and Development (land use planning; environmental criteria and compatible uses near hazards; noise abatement and mitigation measures):

—Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1441, *et seq.*

—Siting of HUD assisted projects near hazardous operations handling explosive or flammable materials. (24 CFR Part 51, Subpart C).

—Siting of HUD assisted projects in runway clear zones (civil airports) and clear zones and accident potential zones (military airfields). (24 CFR Part 51, Subpart D).

• Office of Interstate Land Sales (subdivided land sales):

—Subdivided land sales, registration, and disclosure statements. 15 U.S.C. 1701 (24 CFR Part 1700, *et seq.*).

Department of the Interior

• Fish and Wildlife Service (effects of land use on endangered species and their critical habitats, other fish and wildlife resources, and components of the National Wildlife Refuge and National Fish Hatchery Systems):

—Approval of conversion of use for State lands acquired, developed or improved with grants under the: (1) Pittman-Robertson Act, (2) Dingell-Johnson Act, (3) Endangered Species Act and/or (4) Anadromous Fish Conservation Act. For (1)–16 U.S.C. 669 (50 CFR Parts 80.4 and 80.14); for (2)–16 U.S.C. 777 (50 CFR Parts 80.4 and 80.14); for (3)–16 U.S.C. 1535; and for (4)–16 U.S.C. 757(a) and (b).

—Consultation regarding any Federal actions that may directly or indirectly affect a designated coastal barrier. 16 U.S.C. 3501 (for advisory guidelines, see 48 FR 45664 of Oct. 6, 1983).

—Consultation concerning the protection of fish and wildlife refuges, which may be impacted by transportation projects. 49 U.S.C. 303.

—For jurisdictional responsibilities of the Fish and Wildlife Service on Federal lands see PART III. B.—Federal Land Management.

• Geological Survey (land use planning; geologic and hydrologic hazards; flood studies; geologic, topographic, land use, and photographic mapping).

• Bureau of Indian Affairs (effects of land uses on Indian lands):

—Approval of leases and permits on Indian lands. 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).

—Sale of Indian land. 25 U.S.C. 293–294, 355, 372–73, 378–79, 385–386, 404–405, 463–464, 483 and 608 (25 CFR Parts 152 and 159–160).

—Rights-of-way over Indian lands. 25 U.S.C. 311–321 and 323–328 (25 CFR Part 169).

—Permits concessions and leases on lands withdrawn or acquired in connection with Indian irrigation projects. 25 U.S.C. 390 (25 CFR Part 173).

—For jurisdictional responsibilities on Federal lands administered by Bureau of

Indian Affairs, see PART III. B.—Federal Land Management.

•Bureau of Land Management (effects of land uses on public lands):

—For jurisdiction responsibilities on Federal lands administered by the Bureau of Land Management, see PART III. B.—Federal Land Management.

• Bureau of Mines (mineral resources and land use).

• National Park Service (effects of land uses on National Park System areas; National Trails System; Wild and Scenic River System; park and recreation areas and values; and historic, archeological and architectural sites):

—Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with a Land and Water Conservation Fund Act grant. 16 U.S.C. 4601.

—Assistance to State and local agencies, through an Urban Park and Recreation Recovery Act grant, for the development and/or improvement of park and recreation areas. 16 U.S.C. 2504 (36 CFR Part 69).

—Approval of a conversion to other than public recreation uses for State and local areas developed or improved with an Urban Park and Recreation Recovery Act grant. 16 U.S.C. 2504 (36 CFR Part 69).

—Consultations regarding land uses and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

—Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1246.

—Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as park demonstration areas, as recreation areas, as wildlife conservation preserves and refuges and as historic monuments and properties under: (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative Services Act of 1949. For (1)–16 U.S.C. 459 (r–t); for (2)–40 U.S.C. 484(k)(2) (41 CFR Part 101–47).

—Approval of a conversion to a non-designated use of abandoned railroad rights-of-way acquired by State and local governments under Section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976. 49 U.S.C. 1(a) (36 CFR Part 64).

—Consultation concerning the protection of park, recreation, and cultural resources which may be impacted by transportation projects. 49 U.S.C. 303.

—For other jurisdictional responsibilities of the National Park Service, see PART III. B.—Federal Land Management.

• Bureau of Reclamation (effects of land use on Federal water storage and distribution projects; planning for water development projects; basin-wide water studies and land use aspects of the National Water Summary):

—Sale of farm units on Federal irrigation projects. (Statutory authority appears in individual project authorizations.)

—Administration of excess lands and residency requirements. 43 U.S.C. 371.

• Office of Surface Mining Reclamation and Enforcement (land use and surface coal mining and reclamation operations):

—For jurisdictional responsibilities of the Office of Surface Mining, see PART II. C.—Coal.

Department of Transportation

Office of the Secretary (general effects of transportation projects on land use):

—Approval of transportation programs or projects that require the use of or have significant impacts on park and recreation areas, fish and wildlife refuges, and historic sites. 49 U.S.C. 303.

• Coast Guard (effects of bridges on land use):

—Permits for bridges and causeways over navigable waters. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*; and 535 (33 CFR Part 114 *et seq.*).

• Federal Aviation Administration (airport land use compatibility):

—Airport aid program. 49 U.S.C. 1711–1727 (14 CFR Part 152).

—Acquisition of U.S. land for public airports. 49 U.S.C. 1723 (14 CFR Part 154).

—Notice of construction, alteration, activiation, and deactivation of airports 49 U.S.C. 1350, 1354 and 1355 (14 CFR Part 157).

—Objects affecting navigable airspace. 49 U.S.C. 1655 (14 CFR Part 77).

—Release of airport property from surplus property disposal restrictions. 49 U.S.C. 1101–1119 (14 CFR Part 155).

• Federal Highway Administration (effects of highways on land use):

—Approval of highway projects and programs. 23 U.S.C. 101–156, generally, and 23 U.S.C. 201–219.

—Consultations, in cooperation with the Urban Mass Transportation Administration, with State and local officials concerning urban transportation related systems. 23 U.S.C. 105(d) and 134(a); 49 U.S.C. 1604(g) (23 CFR Part 450).

—Regulation of highway-related land use. For highway beautification—23 U.S.C. 131 (23 CFR Part 750); for junkyard control and acquisition—23 U.S.C. 136 (23 CFR Part 751); for landscape and roadside development—23 U.S.C. 131 and 319 (23 CFR Part 752); for protection of parklands, recreation areas, wildlife refuges, and historic sites—23 U.S.C. 138 (23 CFR Part 771).

• Urban Mass Transportation Administration (effects of urban transportation systems on land use):

—Consultation, in cooperation with the Federal Highway Administration, with State and local officials concerning urban transportation related systems. 23 U.S.C. 105(d) and 134(a); 49 U.S.C. 1604(g) (49 CFR Part 613).

—Approval for substituting mass transit or other transit projects in lieu of an interstate highway project. 23 U.S.C. 103(e)(4).

Advisory Council on Historic Preservation (effects of land use planning on historic properties).

Environmental Protection Agency (effects of land use on pollution control and environmental quality):

—For jurisdictional responsibilities see PART I. A.—Air Quality, PART I. B.—Water Quality, and PART I. C.—Waste Disposal on Land.

Federal Emergency Management Agency (national flood insurance program; disaster relief assistance; mitigation of natural hazards).

Federal Energy Regulatory Commission (effects of power projects on land use):

—Regulation of development of water resources. 16 U.S.C. 791–825(r) (18 CFR Parts 4–25, 36, 131 and 141).

International Boundary and Water Commission, United States Section (land use along international boundary with Mexico).

Interstate Commerce Commission (land use and interstate commerce):

—Approval of Public Convenience and Necessity Certificate for new railroad lines. 49 U.S.C. 10901.

National Aeronautics and Space Administration (remote sensing of land use and land cover).

National Capital Planning Commission (land use in the National Capital Region):

—Approval of land-use plans and construction in National Capital Region. 40 U.S.C. 74a (DC Code 9–404, DC Code 8–102); 40 U.S.C. 122 (DC Code 8–111, DC Code 5–432).

Tennessee Valley Authority (land use planning on public lands in Tennessee Valley region; assistance to local planning organizations).

B. Federal Land Management

Department of Agriculture

• Forest Service (National Forests and Grasslands management, including fire management):

—National Forest System Management Planning. 16 U.S.C. 1604 and 1613 (36 CFR Part 219).

—Special use permits, archeological permits, leases and easements. 16 U.S.C. 497 and 580(d); 43 U.S.C. 1761 and 48 U.S.C. 341 (36 CFR Parts 251 and 261).

—Easement and road rights-of-way on National Forests and other lands. 16 U.S.C. 533 (36 CFR Part 212.10).

—Permits for commercial use of existing roads. 16 U.S.C. 537 (36 CFR Part 212).

—Bankhead-Jones Farm Tenant Act, Title III permits on National Grasslands. 7 U.S.C. 1010–12 (36 CFR Part 213.3).

Department of Commerce

• National Oceanic and Atmospheric Administration (consistency of Federal land uses with coastal zone management programs).

Department of Defense (overall management of Department of Defense lands).

• Department of the Army (management of Army lands):

—Permits and leases for use of Army reservations.

—Permits and leases for use and occupancy of lands at water development projects of the Corps of Engineers.

• Department of the Air Force (management of Air Force lands):

—Permits and leases for use of Air Force reservations.

• Department of the Navy (management of Navy and Marine Corps lands):

—Permits and leases for uses of naval reservations.

Department of the Interior

• Fish and Wildlife Service (effects of Federal land management on endangered species and their critical habitats and other fish and wildlife resources, management of National Wildlife Refuge and National Fish Hatchery System areas):

—Easements/permits for right-of-way across National Wildlife Refuge and National Fish Hatchery System land. For refuges—16 U.S.C. 668dd, *et seq.*; for hatcheries—43 U.S.C. 931 c and d (50 CFR Parts 25.41 and 29.21).

—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460k–3 and 742(f) (50 CFR Part 96).

—Permits for off-road vehicular use on National Wildlife Refuge System areas. E.O. 11644 (50 CFR Part 26.34).

—Consultation concerning the protection of fish and wildlife refuges which may be impacted by transportation projects. 49 U.S.C. 303.

• Geological Survey (Federal land mineral resource potential; wilderness reviews, land-use planning; geologic and hydrologic hazards; flood studies; geologic, topographic, land use, and photographic mapping).

• Bureau of Indian Affairs (effects of Federal land management on Indian lands; management of Bureau of Indian Affairs lands):

—Sale of Federal land purchased for Indian administrative uses. 25 U.S.C. 293.

—Rights-of-way over Federal lands under BIA jurisdiction. 25 U.S.C. 323–328 (25 CFR Part 160).

—Leases for mining, oil and gas, coal, farming and other uses on Federal lands under BIA jurisdiction. 5 U.S.C. 301 and 25 U.S.C. 393, *et seq.* (25 CFR Part 162).

—For the trust responsibilities of the Bureau of Indian Affairs for Indian lands, see PART III. A.—Land Use Planning, etc.

• Bureau of Land Management (management of Federal lands):

—Easements/permits for rights-of-way. 43 U.S.C. 9 and 1701, *et seq.* (43 CFR Parts 2800–2900).

—Special land-use permits for habitation, occupation and other purposes. 43 U.S.C. 1732(b) (43 CFR Part 2920).

—Conditions and standards for off-road vehicle use on BLM lands. 43 U.S.C. 1201; E.O. 11644 (43 CFR Part 8340).

—Permits for off-road vehicular use special events, i.e., tours and competitions. 43 U.S.C. 1701, *et seq.*, and 16 U.S.C. 460(1–6a) (43 CFR Part 8372).

—Exchange of Federal lands for other property. 43 U.S.C. 1716 (43 CFR Parts 2200–2270).

—Leases/transfers of public lands for a public airport. 43 U.S.C. 1201 and 49 U.S.C. 1115 (43 CFR Part 2640).

—Sales/leases of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 869, *et seq.* for sales—43 CFR Part 2740; for leases—43 CFR Part 2912).

—Permits for commercial recreational use of public lands. 43 U.S.C. 1701, *et seq.* (43 CFR Part 8370).

• Bureau of Mines (mineral land assessment).

• National Park Service (management of National Park System areas; units of the National Wild and Scenic Rivers System; National Trails System):

—Permits, leases, and easements of rights-of-way and other uses of National Park System areas. 16 U.S.C. 1, *et seq.* (36 CFR Parts 9 and 14).

—Permits for commercial operations on National Park System areas. 16 U.S.C. 1, *et seq.* (36 CFR Parts 7, 14, 50 and 51).

—Permits for off-road vehicular use in National Park System areas. E.O. 11644 (36 CFR Part 7).

—Consultations regarding use of and effect on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

—Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1246.

—Consultation concerning the protection of park, recreation, and cultural resources which may be impacted by transportation projects. 49 U.S.C. 303.

• Bureau of Reclamation (management of public water storage and delivery projects and recreational developments; irrigation; and impacts of Federal land management of State water planning):

—Sale or lease of project lands to a governmental entity or a non-profit group for recreational or other public purposes. 43 U.S.C. 869.

—Lease of project lands for commercial recreational developments. 43 U.S.C. 391, *et seq.*

Department of Transportation

• Office of the Secretary (effects of transportation projects on Federal land):

—Approval of transportation programs and projects which use a publicly owned park and recreation area, wildlife or waterfowl refuge, or any historic site. 49 U.S.C. 303.

• Federal Highway Administration (construction and management of Federal Lands Highways, including forest highways and National Park Service roads and parkways):

—Federal Lands Highways Program. 23 U.S.C. 204 (23 CFR Parts 660 and 667).

Advisory Council on Historic Preservation (effects of Federal land management on historic properties).

Environmental Protection Agency (effects of Federal land management on pollution control and environmental quality; pesticide use and integrated pest management on public lands):

—Underground injection control permits on Indian lands. 42 U.S.C. 300(f), *et seq.*

—Air emissions from Federal facilities. 42 U.S.C. 7418.

—Wastewater discharges from Federal facilities. 33 U.S.C. 1323.

—Solid wastes and hazardous wastes from Federal facilities. 42 U.S.C. 6961.

—Pesticide use of public lands. 7 U.S.C. 136.

—For other jurisdictional responsibilities, see PART I.—POLLUTION CONTROL.

Federal Emergency Management Agency (effects of the National Flood Insurance Program and disaster relief assistance on Federal land management).

General Services Administration

• Public Buildings Service (management of public buildings and property).

• Federal Property Resources Service (public land disposal).

National Aeronautics and Space Administration (advanced technology for remote sensing of land use and land cover).

Tennessee Valley Authority (TVA reservoir property, secondary use of reservoir property, and reservation planning).

C. Coastal Areas

Department of Agriculture

• Farmers Home Administration (housing, community, and business loan programs; and farmer loan programs in coastal areas).

• Forest Service (National Forests in coastal areas).

—Consultations regarding uses and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Soil Conservation Service (coastal soil stabilization).

Department of Commerce

• National Oceanic and Atmospheric Administration (coastal and marine resources and protection):

—Permits for activities in designated marine sanctuaries. 16 U.S.C. 143, *et seq.* (15 CFR Part 922).

—Approval and funding of State coastal management programs. 16 U.S.C. 1451, *et seq.* (15 CFR Parts 923 and 930).

—Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).

—Determinations to insure Federal development projects and federally permitted or funded projects are consistent with an approved State coastal zone management plan. 16 U.S.C. 1451 (15 CFR Part 930).

—Grants and loans under Coastal Energy Impact Program. 16 U.S.C. 1456(a) (15 CFR Part 931).

Department of Defense

• Army Corps of Engineers (beach erosion and stabilization; dredge and fill permits; ocean dumping; Refuse Act permits):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Office of Policy, Safety, and Environment (effects of energy policies, programs and projects on coastal areas).

Department of Housing and Urban Development

• Office of Housing and Office of Community Planning and Development (development in coastal areas; consistency with coastal zone management plans; consistency with Coastal Barrier Resources Act).

Department of the Interior

• Fish and Wildlife Service (effects of coastal land uses on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

—Consultation regarding any Federal actions that may directly or indirectly affect a designated coastal barrier. 16 U.S.C. 3501. (For advisory guidelines, see 48 FR 45664 of Oct. 6, 1983).

—Consultation regarding Federal projects that may affect an estuarine area 15 U.S.C. 1224.

—Consultation regarding Federal or Federally permitted projects that affect fish and wildlife resources under the Fish and Wildlife Coordination Act. 16 U.S.C. 661, *et seq.*

—U.S. Fish and Wildlife Service Mitigation Policy. 16 U.S.C. 661, *et seq.*; 742(a)–754 and 1001–1009 (46 FR 7644 of Jan. 23, 1981).

• Geological Survey (land use planning; geologic and hydrologic hazards; geologic, topographic, land use, and photographic mapping, including areas of the outer continental shelf and Exclusive Economic Zone).

• Bureau of Indian Affairs (Indian lands in coastal areas).

• Bureau of Land Management (public land management in coastal areas).

• Minerals Management Service (coastal zone planning and management; outer continental shelf lands):

—Oil, gas, and sulphur exploration, development, and production on the outer continental shelf. (30 CFR Part 250.34).

• National Park Service (effects of coastal land use on National Park System areas, park and recreation areas, and historical, archeological and architectural sites; barrier island ecology and coastal processes):

—Identification and listing on the National Registry of Natural Landmarks of nationally significant natural areas in the United States. 16 U.S.C. 461 (36 CFR Part 62).

—Consultations regarding use of and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Bureau of Reclamation (water development projects in coastal areas, effects of water developments and irrigation on estuarine areas).

Department of Transportation

• Coast Guard (bridges, pipelines and transmission lines crossing navigable waters; navigation and deep water ports):

—Permits for bridges and causeways over navigable waters. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*, and 535 (33 CFR Part 114, *et seq.*).

—Permits for waterfront facilities. 33 U.S.C. 1221, *et seq.* (33 CFR Parts 125 and 126).

—Deepwater port regulation and licensing. 33 U.S.C. 1503–1524 (33 CFR Parts 148–150).

• Maritime Administration (coastal land use in relation to ports).

Advisory Council on Historic Preservation (effects of coastal land uses on historic properties).

Environmental Protection Agency (effects of coastal land uses on pollution control and environmental quality):

—For jurisdictional responsibilities see PART I.B.—Water Quality.

Federal Emergency Management Agency (National Flood Insurance Program; floodplain management; uses on sand dunes, mangrove forests and barrier islands; disaster relief assistance).

Federal Energy Regulatory Commission (effects of natural gas transportation, storage, and sale on coastal areas).

Marine Mammal Commission (conservation and protection of marine mammals and their habitat in coastal areas):

—Conservation and oversight responsibility for activities affecting marine mammals. 16 U.S.C. 1402.

National Aeronautics and Space Administration (advanced technology for remote sensing of land use and land cover).

D. Environmentally Sensitive Areas (Wilderness Areas, Wild and Scenic Rivers, Floodplains [see Executive Order 11988], Wetlands [see Executive Order 11990], Barrier Islands, Beaches and Dunes, Unstable Soils, Steep Slopes, Aquifer Recharge Areas, Tundra, etc.)

Department of Agriculture

• Agricultural Research Service (research activities to conserve and assist environmentally sensitive areas).

• Agricultural Stabilization and Conservation Service (commodity and land use programs; Water Bank).

• Farmers Home Administration (housing, community, and business loan programs; farmer loan programs in environmentally sensitive areas).

• Forest Service (management of environmentally sensitive areas on National Forest and Grassland System lands, including fire management):

—Permits for use of wilderness areas. 16 U.S.C. 472 and 551 (36 CFR Part 293).

—Consultations regarding use of and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Soil Conservation Service (conservation and protection of environmentally sensitive areas in rural regions).

Department of Commerce

• National Oceanic and Atmospheric Administration (management and protection of environmentally sensitive coastal and marine areas):

—Consultations concerning the protection of threatened and endangered marine species and their critical habitats. 16 U.S.C. 1531, *et seq.* (50 CFR Part 222).

—Permits for activities in designated marine sanctuaries. 16 U.S.C. 1431, *et seq.* (15 CFR Part 922).

—Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).

—Habitat Conservation Policy (48 FR 53142 of Nov. 25, 1983).

Department of Defense

• Army Corps of Engineers (protection of beaches, wetlands, floodplains, barrier islands):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Health and Human Services

• Public Health Service: Center for Disease Control (environmentally sensitive areas in relation to human health issues).

Department of Housing and Urban Development

• Office of Community Planning and Development (locational criteria for floodplain and wetland development; sole source aquifer and critical habitat; development affecting endangered species and their critical habitats).

• Office of Housing (developable slope and soils criteria).

Department of Interior

• Fish and Wildlife Service (protection of endangered species and their critical habitats; conservation of environmentally sensitive areas in National Wildlife Refuges and National Fish Hatcheries):

—Consultations regarding any Federal actions that may directly or indirectly affect a designated coastal barrier. 16 U.S.C. 3501 (for advisory guidelines, see 48 FR 45664 of Oct. 6, 1983).

—Consultations concerning the protection of endangered species and their critical habitats. 16 U.S.C. 1531–1543 (50 CFR Part 402).

—Determination of critical habitats for endangered and threatened species of fish and wildlife and plants. 16 U.S.C. 1533 (50 CFR Parts 17, 402 and 424).

• Geological Survey (geologic and hydrologic assessments of sensitive areas, including energy and mineral resources in wilderness areas; earthquake, volcanic and other natural hazards).

• Bureau of Indian Affairs (environmentally sensitive areas on Indian lands).

• Bureau of Land Management (environmentally sensitive areas on public lands; management of special areas):

—Leases, permits and licenses for mining in Wild and Scenic Rivers System areas. 16 U.S.C. 1280 (each area has special Federal Regulations).

—Approval of plan of operations for a mining lease in a wilderness study area. 43 U.S.C. 1701, *et seq.*, and 1782; 12 U.S.C. 1201, *et seq.* (43 CFR Part 3802).
—Permits for use of a designated "special area" as defined in 43 CFR Part 8372.0–5(g). 43 U.S.C. 1701, *et seq.*; 16 U.S.C. 460 (1–6a) and 670 (g–n) (43 CFR Part 8370 *et seq.*).
—Restrictions on use of "outstanding natural areas" and "primitive areas." 43 U.S.C. 1701, *et seq.* (43 CFR Subpart 8352).

• National Park Service (historical and recreational values; Wild and Scenic Rivers System; National Trails System; National Park System areas):

—Identification and listing on the National Registry of Natural Landmarks of nationally significant natural areas in the United States. 16 U.S.C. 461 (36 CFR Part 62).
—Leases, permits, and licenses for mining on National Park System lands involved in Wild and Scenic Rivers System. 16 U.S.C. 1280.
—Consultations regarding use of and effect on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*
—Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1246.

• Bureau of Reclamation (water resource planning and water storage and delivery projects in environmentally sensitive areas; National Water Summary).

• Office of Surface Mining Reclamation and Enforcement (surface coal mining and reclamation operations in environmentally sensitive areas):

—Identification of lands considered unsuitable for all or certain stipulated methods of coal mining involving surface coal mining operations. 30 U.S.C. 1272(e) (30 CFR Chapter 7, Subchapter F).
—Protection of prime farmlands during surface coal mining and reclamation operations. 30 U.S.C. 1265 (30 CFR Parts 785.17 and 823).

Department of Transportation

• Office of Secretary (effects of all types of transportation projects on environmentally sensitive areas).

• Coast Guard (port facilities and bridges in environmentally sensitive areas):

—Establishment of port access routes in environmentally sensitive areas. 33 U.S.C. 1221.

• Federal Highway Administration (highways in environmentally sensitive areas):

—Mitigation of impacts to privately owned wetlands. 23 U.S.C. 109; Executive Order 11990 (23 CFR Part 777).

Advisory Council on Historic Preservation (effects of activities in sensitive areas on historic properties).

Environmental Protection Agency (pollution control and environmental effects on wetlands, floodplains, prime agricultural lands, and other environmentally sensitive areas):

—For jurisdictional responsibilities, see PART I. A.—Air Quality, PART I. B.—Water Quality, and PART I. C.—Waste disposal on Land.

Federal Emergency Management Agency (National Flood Insurance Program; floodplain management; uses on sand dunes, mangrove forests, and barrier islands; disaster relief assistance).

National Science Foundation (conservation of Antarctic animals, plants, and ecosystems):

—Permits for the taking or collecting of Antarctic animals and plants, and for entry into certain designated areas. 16 U.S.C. 2401, *et seq.* (45 CFR Part 670).

Tennessee Valley Authority (Protection and management of environmentally sensitive areas in the Tennessee Valley region).

E. Outdoor Recreation

Department of Agriculture

• Forest Service (recreation in National Forests and Grasslands):

—Use of recreation areas. (36 CFR Parts 291, 292 and 294).
—Permits for use of wilderness areas. 16 U.S.C. 472 and 551 (36 CFR Part 293).
—Conditions and requirements for use of National Forest road and trail system. 16 U.S.C. 537 (36 CFR Part 212).
—Permits for use of National Scenic Trails administered by Forest Service. 16 U.S.C. 1246.
—Permits for hunting and fishing in fish and wildlife refuge lands. 16 U.S.C. 551 and 683.
—Conditions and standards for off-road vehicle use on National Forest System lands. 16 U.S.C. 551; E.O. 11644 (36 CFR Part 295).
—Consultations regarding use of and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Soil Conservation Service (recreation and watershed protection; planning assistance to private landowners):

—Assistance to State and local sponsors, through a Small Watershed Program grant, for reservoir and stream modification projects including development of basic public recreation facilities. 16 U.S.C. 1001, *et seq.* and 33 U.S.C. 701–1.

Department of Commerce

• National Oceanic and Atmospheric Administration (marine recreational fishing; coastal access planning in State coastal zone management programs).

Department of Defense

• Army Corps of Engineers (recreational areas on Corps project lands):

—Permits for activities and developments on water resources development projects. 16 U.S.C. 460(d) (36 CFR Parts 313 and 327).

Department of Health and Human Services

• Public Health Service: Center for Disease Control (outdoor recreation and health).

Department of Housing and Urban Development

• Office of Community Planning and Development (outdoor recreation in urban areas):

—Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with an Open Space Land Program grant. 42 U.S.C. 1500–1500e.

Department of the Interior

• Fish and Wildlife Service (effects of recreation on endangered species and their critical habitats, and other fish and wildlife resources; recreation on National Wildlife Refuge and National Fish Hatchery System lands):

—Permits for special uses including concessions and other recreational facilities on National Wildlife Refuge System lands. 16 U.S.C. 668dd, *et seq.* (50 CFR Part 25.41, *et seq.*).
—Permits for off-road vehicular use on National Wildlife Refuge System lands. E.O. 11644 (50 CFR Part 26.34).
—Consultation concerning the protection of fish and wildlife refuges which may be impacted by transportation projects. 49 U.S.C. 303.

• Geological Survey (effects of water quality and erosion on recreation).

• Bureau of Indian Affairs (outdoor recreation on Indian lands).

• Bureau of Land Management (outdoor recreation on public lands generally, including ORV use and river management):

—Leases and sale of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 869, *et seq.* (For sales—43 CFR Part 2740; for leases—43 CFR Part 2912).
—Conditions and standards for off-road vehicle use on BLM lands. 43 U.S.C. 1201; E.O. 11644 (43 CFR Part 8340).
—Permits for off-road vehicular use special events, i.e., tours and competitions. 43 U.S.C. 1701, *et seq.*, and 16 U.S.C. 460 (1–6a) (43 CFR Part 8372).
—Permits for use of a national trail, developed facility and a designated "special area" as defined in 43 CFR Part 8372.0–5(g). 43 U.S.C. 1701, *et seq.*; 16 U.S.C. 460 (1–6a) and 670 (g–n) (43 CFR Part 8370).
—Permits for commercial recreation use of public lands. 43 U.S.C. 1701, *et seq.* (43 CFR Part 8370).

• National Park Service (outdoor recreation, urban parks, Wild and Scenic Rivers System, National Trails System; recreation in National Park System areas):

—Assistance to State and local agencies, through Land and Water Conservation Fund Act grants, for the acquisition and/or development of park and recreation areas and/or facilities. 16 U.S.C. 4601.
—Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with a Land and Water Conservation Fund Act grant. 16 U.S.C. 4601.
—Assistance to State and local agencies, through Urban Park and Recreation Recovery Act grants, for the development

and/or improvement of park and recreation areas. 16 U.S.C. 2504 (36 CFR Part 1228).
—Approval of a conversion to other than public recreation uses for State and local areas developed or improved with an Urban Park and Recreation Recovery Act grant. 16 U.S.C. 2504 (36 CFR Part 69).
—Consultations regarding use of and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*
—Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1246.
—Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as park demonstration areas, recreation areas, wildlife conservation preserves and refuges and as historic monuments and properties under the (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative Services Act of 1949. For (1)—16 U.S.C. 459 r–t; for (2)—40 U.S.C. 484(k)(2) (41 CFR Part 101–47).
—Approval of a conversion to a non-designated use of abandoned railroad rights-of-way acquired by State and local governments under Section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976. 49 U.S.C. 1a (36 CFR Part 64).
—Consultation concerning the protection of park, recreation, and cultural resources which may be impacted by transportation projects. 49 U.S.C. 303.
—Consultations about extent to which proposed recreational developments at hydroelectric projects conform to and are in accord with the Statewide Comprehensive Outdoor Recreation Plans. 16 U.S.C. 460.
—Permits for off-road vehicle use on National Park System lands. 16 U.S.C. 1, *et seq.*; E.O. 11644 (36 CFR Part 7).

• Bureau of Reclamation (recreation on water storage and delivery projects):
—Sale or lease of project lands to a governmental entity or a non-profit group for recreational purposes. 43 U.S.C. 869.
—Lease of project lands for commercial recreational developments. 43 U.S.C. 391, *et seq.*
—Permits for organized off-road vehicular events. (43 CFR Part 420.24).

• Office of Surface Mining Reclamation and Enforcement (use of abandoned mined lands for recreational purposes):
—Identification of park and recreation lands considered unsuitable for surface coal mining operations. 30 U.S.C. 1272(e) (30 CFR Chapter 7, Subchapter F).

Department of Transportation

• Office of the Secretary (general effects of transportation projects on parks and recreation areas):
—Approval of transportation programs or projects that require the use of or have significant impact on park and recreation areas. 49 U.S.C. 303.

• Coast Guard (recreational boating):
—Recreational boating regulations and permits. 46 U.S.C. 1451 (33 CFR Part 173, *et seq.*).

• Federal Highway Administration (effects of highways on parks and recreation areas):
—Special protection considerations for public park and recreation areas. 23 U.S.C. 138 and 49 U.S.C. 303 (23 CFR Part 771).
—Access highways to public recreation areas on lakes. 23 U.S.C. 155.

Advisory Council on Historic Preservation (effects of recreational activities and development on historic properties).

Environmental Protection Agency (pollution control and environmental quality in relation to outdoor recreation):
—For jurisdictional responsibilities, see PART I—POLLUTION CONTROL.

National Capital Planning Commission (recreation in the Washington, D.C. area):
—Approval of land use plans and construction in the National Capital Region. 40 U.S.C. 74a (D.C. Code 9–404, D.C. Code 8–102); 40 U.S.C. 122 (D.C. Code 8–11, D.C. Code 5–432).

Tennessee Valley Authority (recreation on public lands and waters in Tennessee Valley Region).

F. Community Development

Department of Agriculture

• Agricultural Stabilization and Conservation Service (rural development and farm programs).

• Extension Service (rural and community development programs).

• Farmers Home Administration (rural and community development programs).

• Forest Service (programs to assist in coordinating development of communities in and adjacent to National Forest System areas; urban forestry).

• Soil Conservation Service (soil and related resource surveys; land conservation and utilization):
—Soil, water, and related resource data. 7 U.S.C. 1010a.
—Program for land conservation and utilization. 7 U.S.C. 1011(e).

Department of Commerce

• Economic Development Administration (community development programs in designated areas).

• National Oceanic and Atmospheric Administration (energy development impacts on communities):
—Approval and funding of State coastal zone management programs. 16 U.S.C. 1451, *et seq.* (15 CFR Parts 130 and 923).

Department of Health and Human Services

• Center for Disease Control (community health issues).

• Office of Human Development Services (problems of handicapped, aged, children and Native Americans).

Department of Housing and Urban Development

• Office of Community Planning and Development (community development; effects on low income populations; economic revitalization in distressed areas; density and congestion mitigation; rehabilitation and urban homesteading):
—Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1441, *et seq.*
—Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).
—Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with an Open Space Land Program grant. 42 U.S.C. 1500–1500e.

Department of the Interior

• Fish and Wildlife Service (effects of community developments on endangered species and their critical habitats, other fish and wildlife resources, and National Wildlife Refuge and National Fish Hatchery System areas).

• Geological Survey (effects of development on water resources and erosion; geologic and hydrologic hazards, including floods, subsidence, sink holes, landslides, and earthquakes).

• Bureau of Indian Affairs (community development for Indian peoples and on Indian lands).

• Bureau of Land Management (community developments on public lands):
—Leases and sale of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 869, *et seq.* (For sales—43 CFR Part 2740, for leases—43 CFR Part 2912).
—Leases/transfers of public lands for a public airport. 49 U.S.C. 1115 (43 CFR Part 2640).
—Exchange of Federal lands for other property. 43 U.S.C. 1716 (43 CFR Part 2200–2270).

• National Park Service (effects of community developments on natural and historic landmarks, archeological remains, outdoor recreation, urban parks, historic preservation, and National Park System areas):
—Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with a Land and Water Conservation Fund Act grant. 16 U.S.C. 4601.
—Approval of a conversion to other than a public recreation use for State and local areas developed or improved with an Urban Park and Recreation Recovery Act grant. 16 U.S.C. 2504 (36 CFR Part 69).
—Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as park demonstration areas, recreation areas, wildlife conservation preserves and refuges and as historic monuments and properties under the (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative Services Act of 1949. For (1)—16 U.S.C. 459 r-t; for (2)—40 U.S.C. 484(k)(2) (41 CFR Part 101–47).
—Approval of a conversion to a non-designated use of abandoned railroad right-of-way acquired by State and local governments under Section 809(b) of the

Railroad Revitalization and Regulatory Reform Act of 1976. 49 U.S.C. 1a (36 CFR Part 64).

—Assistance for the acquisition, rehabilitation, restoration and reconstruction of historic properties. 16 U.S.C. 470, *et seq.* (36 CFR Parts 60.3 and 68).

• Bureau of Reclamation (water storage, delivery, and irrigation systems for community development purposes):

—Sales of farm units on Federal irrigation projects (Statutory jurisdiction appears in individual project authorizations).

—Sale or lease of project lands to a governmental entity or nonprofit group for recreational or other public purposes. 43 U.S.C. 869.

• Office of Surface Mining Reclamation and Enforcement (effects of surface mining and reclamation operations on community development).

Department of Transportation

• Federal Aviation Administration (effects of airport development and use on communities):

—Approval of an airport noise compatibility program. 49 U.S.C. 2101, *et seq.* (14 CFR Part 150).

• Federal Highway Administration (effects of highways on communities):

—Relocation assistance in connection with highway projects. 42 U.S.C. 4601 *et seq.* (23 CFR Part 740 and 49 CFR Part 25).

—Grants for economic growth center development highways. 23 U.S.C. 143.

• Urban Mass Transportation Administration (effects of urban transportation systems on communities):

—Grants for Urban Mass Transportation Act projects. 49 U.S.C. 1610, *et seq.*

ACTION (effects of community development on low income populations).

Advisory Council on Historic Preservation (effects of community development on historic properties).

Environmental Protection Agency (air, noise, and water pollution control relating to community development):

—For jurisdictional responsibilities, see PART I.—POLLUTION CONTROL.

Federal Emergency Management Agency (National Flood Insurance Program; disaster relief assistance; mitigation of natural hazards).

General Services Administration

• Public Building Service (building design, construction, and use).

Interstate Commerce Commission (effects of rail line construction and abandonment on community development).

National Capital Planning Commission (community developments in the Washington, D.C. area):

—Approval of land use plans and construction in the National Capital Region. 40 U.S.C. 74a (DC Code 9–404, DC Code 8–102); 40 U.S.C. 122 (D.C. Code 8–111, DC Code 5–432).

National Endowment for the Arts (effects of development on artistic values).

G. Historic, Architectual, and Archeological Resources

Department of Agriculture

• Office of the Secretary (protection of archeological resources):

—Permits and procedures for the recovery and preservation of archeological resources on Department of Agriculture lands. 16 U.S.C. 470 aa–ll (36 CFR Part 296).

• Agricultural Stabilization and Conservation Service (effects on historic and archeological resources from agriculture).

• Farmers Home Administration (effects of housing, community, and business programs, and farmer programs on cultural resources).

• Forest Service (protection of historic and archeological resources in National Forests and Grasslands):

—Special-use permits, archeological permits, leases and easements. 16 U.S.C. 497 and 580(d); 43 U.S.C. 1761; 48 U.S.C. 341 (36 CFR Parts 251 and 261).

• Soil Conservation Service (effects of agriculture on cultural resources).

Department of Commerce

• National Oceanic and Atmospheric Administration (areas for preservation and restoration under State coastal zone management programs):

—National Marine Sanctuaries. 16 U.S.C. 1431 (15 CFR Part 922).

—National Estuarine Sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).

Department of Defense

• Office of the Secretary (protection of archeological resources):

—Permits/procedures for recovery and preservation of archeological resources on Department of Defense lands. 16 U.S.C. 470 aa–ll (32 CFR Part 229).

Department of Housing and Urban Development

• Office of Community Planning and Development (protection of historic and architectural resources in developed areas):

—Housing and Community Development Act of 1974. 42 U.S.C. 5304(f) (24 CFR Part 58).

Department of the Interior

• Fish and Wildlife Service (cultural resource management on National Wildlife Refuge and National Fish Hatchery System lands, and effects of cultural resource management on endangered species and critical habitats):

—Special use permit for antiquities search and collection activities—in addition to an antiquity permit. 16 U.S.C. 668(dd), *et seq.* (50 CFR Part 25.41); also see 16 U.S.C. 470 aa–ll (43 CFR Part 7).

• Geological Survey (paleontological resources in general).

• Bureau of Indian Affairs (protection of historic and archeological resources on Indian and Native American lands):

—Concurrence for issuance and supervision of antiquity permits on Indian lands. 16 U.S.C. 432 (25 CFR Part 261); also see 16 U.S.C. 470 aa–ll (43 CFR Part 7).

—Protection of access to sacred sites, use and possession of sacred objects and other rights of the American Indian, Eskimo, Aleut, and Native Hawaiian. 42 U.S.C. 1996.

• Bureau of Land Management (cultural resource management on public lands):

—Concurrence for issuance and supervision of antiquity permits. 16 U.S.C. 432 (43 CFR Part 3); also see 16 U.S.C. 470 aa–ll (43 CFR Part 7).

• Minerals Management Service (protection of cultural resources on outer continental shelf lands):

—Outer Continental Shelf Lands Act. 43 U.S.C. 1331 (30 CFR Parts 250 and 251).

• National Park Service (protection of historic, archeological, architectual and paleontological properties; cultural resource management on National Park System lands):

—Nominations to and determinations of eligibility of properties for inclusion in the National Register of Historic Places. 16 U.S.C. 470, *et seq.* (36 CFR Part 60 and 63).

—Approval of procedures in State and local government historic preservation programs. 16 U.S.C. 470, *et seq.* (36 CFR Part 61).

—National Historic Landmarks Program—nominations and designations. 16 U.S.C. 461, *et seq.* (36 CFR Part 65).

—Historic Preservation Certifications pursuant to the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, and the Economic Recovery Tax Act of 1981. 16 U.S.C. 470, *et seq.*; 90 Stat. 1519; 92 Stat. 2828; 94 Stat. 3204; 95 Stat. 172 (36 CFR Part 67).

—The Secretary of the Interior's Standards and Guidelines for Historic Preservation Projects. 16 U.S.C. 470, *et seq.*; Executive Order 11593 (36 CFR Part 68).

—The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation pursuant to Sections 101 and 110 of the National Historic Preservation Act. 16 U.S.C. 470, *et seq.* (48 FR 44716 of Sept. 29, 1983).

—Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act. 16 U.S.C. 470, *et seq.* (36 CFR Part 78).

—Protection of the world's cultural and natural heritage: the World Heritage Convention. 16 U.S.C. 470a–1 and 2–2d (36 CFR Part 73).

—Permits and procedures for the recovery and preservation of archeological resource on Department of the Interior lands. 16 U.S.C. 470 aa–ll (43 CFR Part 7).

—Permits to examine ruins, excavate archeological sites and gather objects of antiquity on Federal and Indian lands (Antiquity permits issued by the Departmental Consulting Archeologist). 16 U.S.C. 432 (43 CFR Part 3; 36 CFR Parts 2.20 and 2.25); also see 16 U.S.C. 470 aa–ll (43 CFR Part 7).

—Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as park demonstration areas, recreation areas, wildlife conservation preserves and refuges and as historic monuments and properties under the (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative

Services Act of 1949. For (1)—16 U.S.C. 459 r–t; for (2)—40 U.S.C. 484(k)(2) (41 CFR Part 101–47).

—Consultation concerning the protection of any historic site which may be impacted by a transportation project. 49 U.S.C. 303.

• Bureau of Reclamation (protection of cultural resources on water storage and delivery project lands):

—Procedures for the administration and protection of cultural resources. E.O. 11593 (43 CFR Part 422).

—Concurrence for issuance and supervision of antiquity permits. 16 U.S.C. 432 (43 CFR Part 3); also see 16 U.S.C. 470 aa–ll (43 CFR Part 7).

• Office of Surface Mining Reclamation and Enforcement (protection of important historic, cultural, scientific, and aesthetic resources in surface coal mining and reclamation operations):

—Concurrence for issuance and the supervision of antiquity permits. 16 U.S.C. 432 (43 CFR Part 3); also see 16 U.S.C. 470 aa–ll (43 CFR Part 7).

Department of Transportation

• Office of the Secretary (general effects of transportation projects on cultural resources):

—Approval of transportation programs or projects that require the use of or have significant impacts on historic sites. 49 U.S.C. 303.

• Coast Guard (effects of bridges on cultural resources):

—Construction and alterations on bridges and causeways over navigable waters that are or require the use of or have significant impacts on historic sites. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*, and 535 (33 CFR Part 114, *et seq.*).

• Federal Aviation Administration (effects of airport developments and air traffic on cultural resources; sonic boom impacts).

• Federal Highway Administration (effects of highway projects on cultural resources):

—Approval of transportation programs or projects that require the use of or have significant impacts on historic sites. 23 U.S.C. 138 and 49 U.S.C. 303 (23 CFR Part 771).

—Archeological and paleontological salvage on Federal and Federal-aid highway projects. 23 U.S.C. 305.

• Federal Railroad Administration (effects of railroad projects on cultural resources).

• Urban Mass Transportation Administration (effects of urban transportation projects on architectural and historic resources).

Advisory Council on Historic Preservation (effects of development or other actions on historic properties):

—Consultation concerning the effects of any Federal, federally assisted, or federally regulated activity on historic properties. 16 U.S.C. 470, *et seq.* (36 CFR Part 800).

General Services Administration

• Public Buildings Service (effects of development and pollution on architectural and historic resources in urban areas).

Interstate Commerce Commission (effects of rail line construction and abandonment on cultural resources).

National Capital Planning Commission (effects of development and pollution on architectural, historic and archeological resources in the Washington, D.C. area):

—Approval of land use plans and construction in the National Capital Region. 40 U.S.C. 74a (D.C. Code 9–404, D.C. Code 8–102); 40 U.S.C. 122 (D.C. Code 8–111, D.C. Code 5–432).

Tennessee Valley Authority (effects of development and other actions on historic and archeological resources in the Tennessee Valley region):

—Permits and procedures for the recovery and preservation of archeological resources on TVA lands. 16 U.S.C. 470 aa–ll (18 CFR Part 1312).

IV. NATURAL RESOURCES MANAGEMENT

A. Weather Modification

Department of Agriculture

• Forest Service (effects of weather modification on National Forests and Grasslands).

• Soil Conservation Service (snow surveys and soil moisture monitoring).

• World Agricultural Outlook Board (data relating to weather and agricultural commodities).

Department of Commerce

• National Oceanic and Atmospheric Administration (weather research and development):

—Records and reports or weather modification activities. 85 Stat. 735 (15 CFR Part 908).

Department of Defense

• Department of the Air Force (fog dissipation).

Department of the Interior

• Bureau of Indian Affairs (effects of weather modification on Indian Lands).

• Bureau of Land Management (effects of weather modification on public lands).

• Fish and Wildlife Service (effects of weather modification on endangered species and their critical habitats, other fish and wildlife resources, and National Wildlife Refuge and National Fish Hatchery System areas).

• Geological Survey (effects of weather modification on water resources; paleoclimatic studies).

• National Park Service (effects of weather modification on National Park System areas).

• Bureau of Reclamation (effects of weather modification on water storage and delivery projects; research in relation to water resources):

—Precipitation augmentation through cloud seeding. 43 U.S.C. 377.

Environmental Protection Agency (effects of weather modification on pollution control and environmental quality).

B. Marine Resources

Department of Commerce

• National Oceanic and Atmospheric Administration (meteorological and oceanographic research and monitoring; management and protection of coastal and marine resources; marine pollution research and monitoring; ocean pollution; ocean mining; ocean dumping; seafood quality; regulation of marine fisheries):

—Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).

—Permits for activities in designated marine sanctuaries. 16 U.S.C. 1431, *et seq.* (15 CFR Part 922).

—Consultations regarding Federal or federally permitted projects affecting fish and wildlife habitat in coastal and offshore areas under the Fish and Wildlife Coordination Act. 16 U.S.C. 661, *et seq.*

—Consultations regarding projects which may affect any threatened or endangered marine species or its critical habitat. 16 U.S.C. 1531, *et seq.* (50 CFR Parts 222 and 402).

—Permits for scientific research and display of marine mammals. 16 U.S.C. 1374 (50 CFR Parts 216.31, 220 and 618).

—Permits to enhance the propagation or survival of endangered or threatened marine species. 16 U.S.C. 1531 (50 CFR Part 222.21).

—Control of fishing by foreign and domestic vessels in the 3–200 mile Fishery Conservation Zone. 16 U.S.C. 1801, *et seq.* (50 CFR Chapter VI).

—Permits for importing marine mammals or products thereof. 16 U.S.C. 1361 and 1371–74 (50 CFR Parts 18 and 216).

—Licenses for siting, design, and operation of ocean-thermal energy facilities. 42 U.S.C. 9101, *et seq.* (15 CFR Part 981).

—Licenses and permits for deep seabed hard mineral resource exploration or recovery. 30 U.S.C. 1401, *et seq.* (15 CFR Part 970).

—Approval of fishery management plans. 16 U.S.C. 1801, *et seq.* (50 CFR Part 601).

—Permits for scientific research, propagation and survival of marine reptiles. 16 U.S.C. 1538 (50 CFR Part 223.23).

—Permits for whaling for scientific and subsistence purposes. 16 U.S.C. 916 (50 CFR Part 216).

Department of Defense

• Army Corps of Engineers (effects of activities in navigable waters on marine resources):

—Regulation of artificial islands, installations and devices on the outer continental shelf. 43 U.S.C. 1333(e) (33 CFR Part 320.2(b)).

—For other jurisdictional responsibilities, see PART I. B.—Water Quality.

• Department of the Navy (oceanography and hydrographic mapping; ship pollution).

Department of Energy

• Office of Policy, Safety, and Environment (effects of energy programs on marine resources).

Department of Health and Human Services

• Public Health Service (effects of marine pollution on health).

• Food and Drug Administration (shellfish sanitation; contamination of fish and shellfish with toxics).

Department of the Interior

• Fish and Wildlife Service (effects of marine pollution on endangered species and their critical habitats, estuarine areas, marine sanctuaries, sport fisheries, migratory waterfowl, barrier islands, and coastal National Wildlife Refuges):

—Consultation regarding Federal projects that may affect an estuarine area. 15 U.S.C. 1224.

—Habitat acquisition and improvement for designated marine mammals. 16 U.S.C. 136, *et seq.*

• Geological Survey (marine geophysical surveys, including assessment of marine energy and mineral deposits; offshore geologic studies).

• Minerals Management Service (emissions from outer continental shelf lease operations; effects of pollution from outer continental shelf mineral lease operations; protection of marine biological resources on outer continental shelf leases; management of outer continental shelf lands):

—For jurisdictional responsibilities see PART II. B.—Oil and Gas and PART IV. G—Non-energy Mineral Resources.

• Bureau of Mines (pollution from ocean mining).

• National Park Service (marine pollution affecting National Park System areas, especially National Seashores; marine recreational resources; historic and archeological sites in coastal areas and on the continental shelf).

• *Department of State* (international aspects of water pollution and marine resources, including migratory birds and marine mammals).

Department of Transportation

• Coast Guard (ocean dumping enforcement and marine resource protection; discharges of toxic materials in navigable waters; recreational boating):

—Transportation of hazardous materials by vessel. 46 U.S.C. 170, 375, 391(a) and 416(j); 49 U.S.C. 1655, 1803, 1804 and 1808(j); 50 U.S.C. 191 (33 CFR Parts 151, *et seq.;* and 160, *et seq.*; 46 CFR Chapter I).

—Hazardous substance discharge to navigable waters. 33 U.S.C. 1321 (33 CFR Parts 25 and 151, *et seq.;* 46 CFR Part 542, *et seq.*).

—Navigation and waterfront facility regulation. 33 U.S.C. 1221, *et seq.*(33 CFR Parts 125 and 126).

—Outer continental shelf structures. 43 U.S.C. 1331 (33 CFR Part 140, *et seq.*).

—Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).

—Deepwater port regulation and licensing. 33 U.S.C. 1503–1524 (33 CFR Parts 148–150).

—Recreational boating regulation. 46 U.S.C. 1451 (33 CFR Part 173, *et seq.*).

• Maritime Administration (port, coastal, and ocean pollution; marine pollution from ships; destruction/treatment of wastes at sea):

—Merchant vessels: polluting, discharging and dumping. 46 U.S.C. 1101, *et seq.*

—Port operations: polluting, discharging and dumping. 46 U.S.C. 867.

Advisory Council on Historic Preservation (effects of activities in coastal and marine areas on historic properties).

Environmental Protection Agency (marine discharges, oil spills, ocean dumping; environmental effects; ocean disposal of radioactive waste and hazardous materials):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Federal Maritime Commission (vessel certification with respect to liability for water pollution):

—Certificates of financial responsibility for water pollution. 33 U.S.C. 1321 (46 CFR Part 542); 42 U.S.C. 1643 (46 CFR Part 543); 43 U.S.C. 1815 (46 CFR Part 544).

Marine Mammal Commission (conservation and protection of marine mammals and their habitat):

—Consultation and oversight responsibility for activities affecting marine mammals. 16 U.S.C. 1402.

—Review of permit applications for taking and importation of marine mammals and marine mammal products. 16 U.S.C. 1371(a).

National Aeronautics and Space Administration (advanced technology for remote sensing in oceanography and marine resource conservation).

Nuclear Regulatory Commission (radioactive substances in the marine environment).

C. Water Resources Development and Regulation

Department of Agriculture

• Agricultural Stabilization and Conservation Service (water resource conservation; Water Bank program).

• Animal and Plant Health Inspection Service (control of exotic noxious weeds in waterways and streams).

• Forest Service (effects of water resource developments on National Forests and Grasslands):

—Water resource development in wilderness areas. (36 CFR Part 293.15).

—Consultations regarding water resource development and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

• Agricultural Research Service (research on soil and water conservation).

• Soil Conservation Service (watershed protection; river basin studies, flood prevention, and habitat analysis):

—Assistance to State and local sponsors, through a Small Watershed Program grant, for watershed, reservoir, flood-control and drainage projects. 16 U.S.C. 1001, *et seq.;* 33 U.S.C. 701–1 and 42 U.S.C. 1962, *et seq.* (7 CFR Parts 620, *et seq.;* and 660).

Department of Commerce

• National Oceanic and Atmospheric Administration (estuarine and anadromous fish habitat; review of Federal permits affecting water resources and management; protection of coastal and marine resources; river and flood forecasting).

Department of Defense

• Army Corps of Engineers (water resource development and regulation activities in water of the United States):

—Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403, and 419 (33 CFR Part 322).

—Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (33 CFR Part 323).

—Guidelines controlling the discharge of dredged or fill material in waters of the United States including wetlands. (40 CFR Part 230).

—Permits for uses at Corps reservoirs managed by a lakeshore management plan. 33 U.S.C. 1251.

—Permits for use of river or harbor improvements built by United States. 33 U.S.C. 408 (33 CFR Part 320.2(e).

—For other jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Office of Policy, Safety, and Environment (effect of energy policies, programs, and projects).

Department of the Interior

• Fish and Wildlife Service (effects of water resource developments on endangered species and their critical habitats, other fish and wildlife resources, and National Wildlife Refuge and National Fish Hatchery System areas):

—Consultation regarding Federal or Federally permitted projects which affect streams and water bodies. 16 U.S.C. 661, *et seq.*

—U. S. Fish and Wildlife Service Mitigation Policy. 16 U.S.C. 661–667(e), 742(a)–754 and 1001–1009 (46 FR 7644 of Jan. 23, 1981).

—Consultation regarding Federal projects that may affect an estuarine area under the Estuarine Protection Act. 15 U.S.C. 1224.

• Geological Survey (hydrologic research; collection, analysis, and dissemination of data on quantity and quality of surface and ground water; National Water Summary).

• Bureau of Indian Affairs (effects of water resources developments on Indian lands):

—Permits, concessions, and leases on lands withdrawn or acquired in connection with Indian irrigation projects. 25 U.S.C. 390 (25 CFR Part 173).

• Bureau of Land Management (effects of water resource developments on public lands):

—Permits, leases, and easements for water control projects. 43 U.S.C. 1732(b) and 1761(a)(1) (43 CFR Part 2800).

• Bureau of Mines (effects of water resource developments and regulation on mineral resources, production and transportation).

• National Park Service (effects of water resource developments on Wild and Scenic River System, outdoor recreation areas, and National Park System areas):

—Consultations regarding water resource developments and effects on rivers established as units of the National Wild

and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

—Consultations about extent to which proposed recreational developments at hydroelectric projects conform to and are in accord with the State Comprehensive Outdoor Recreation Plan. 16 U.S.C. 470.

• Bureau of Reclamation (water storage and delivery projects and their effects; water policy analysis; impacts on State water management):

—Construction and operation of works and structures for storage, diversion and development of waters, including flood control, navigation and river-flow regulation and control in the 17 contiguous western States. 43 U.S.C. 391 *et seq.*

• Office of Surface Mining Reclamation and Enforcement (effects of water resource developments on surface coal mining and reclamation operations).

Department of Transportation

• Coast Guard (vessel, bridge, port, and waterway regulation and safety; navigational aids):

—Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).

—Construction and alterations of bridges and causeways over navigable waters. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*, and 535 (33 CFR Part 114, *et seq.*).

• Federal Highway Administration (effects of water resource developments on highways):

—Approval of Federal-aid highway and bridge projects involving navigable waters and channel changes. 23 U.S.C. 144 (23 CFR Part 650).

—Approval of toll bridge and ferry projects. 23 U.S.C. 129.

• Saint Lawrence Seaway Development Corporation (Seaway regulation):

—Construction, development, operation, and maintenance of the United States part of the Seaway. 33 U.S.C. 981–990 (33 CFR Parts 401–403).

Advisory Council on Historic Preservation (effects of water resource developments on historic properties).

Delaware River Basin Commission (management of water resources in the Delaware River basin):

—Review and approval of water resource projects. 75 Stat. 708 (18 CFR Parts 401–430).

Environmental Protection Agency (effects of water resource developments on pollution control):

—Review of permits for discharge of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (40 CFR Part 230).

—Guidelines controlling the discharge of dredged or fill material in waters of the U.S. including wetlands. (40 CFR Part 230).

—For other jurisdictional responsibilities, see PART I. B.—Water Quality.

Federal Emergency Management Agency (floodplain mapping and floodplain management; dam and levee safety; mitigation of natural hazards).

Federal Energy Regulatory Commission (effects of power projects):

—Regulation of development of water resources. 16 U.S.C. 791–825[r] (18 CFR Parts 4–25, 36, 131 and 141).

International Boundary and Water Commission, United States Section (maintenance, restoration and protection of banks of Rio Grande and Colorado River where they form the international boundary with Mexico; construction and operation of works and structures for storage and diversion of waters, including flood control on the Rio Grande and Colorado Rivers).

National Capital Planning Commission (water resource developments in Washington, D.C. area):

—Approval of taking lines and general development plans for parks in stream valleys in Maryland and Virginia tributaries to the Potomac and Anacostia Rivers. Act of May 29, 1930; 46 Stat. 432 as amended.

Susquehanna River Basin Commission (management of water resources in the Susquehanna River basin):

—Review and approval of water resource projects. 84 Stat. 1509 *et seq.* (18 CFR Parts 801–803).

Tennessee Valley Authority (water resource developments and regulation in the Tennessee Valley region):

—Construction of dams, appurtenant works, or other waterway improvement activities affecting navigation, flood control, public lands or reservations on the Tennessee River System. 16 U.S.C. 831(y–1).

D. Watershed Protection and Soil Conservation

Department of Agriculture

• Agricultural Research Service (technical aspects of water and soil conservation).

• Agricultural Stabilization and Conservation Service (soil conservation; cost-sharing farm and forest conservation programs).

• Extension Service (extension programs in agricultural conservation).

• Farmers Home Administration (effects of housing, community, and business programs, and farmer programs on soil and water conservation; conservation loan programs).

• Forest Service (soil and water conservation, and their effects on National Forests and Grasslands; forest and range soil rehabilitation):

—Emergency soil and water conservation programs. 16 U.S.C. 2202, *et seq.*

• Soil Conservation Service (soil surveys; technical assistance in areas of soil, water, and related resource conservation for landowners and landusers through several multi-functional programs):

—Grants for Watershed Protection and Flood Prevention Act activities. 16 U.S.C. 1001, *et seq.* (7 CFR Part 620, *et seq.*, and 660).

—Land conservation and land utilization program. 7 U.S.C. 1010, *et seq.*

Department of Commerce

• National Oceanic and Atmospheric Administration (weather research, river and flood forecasting).

Department of Defense

• Army Corps of Engineers (dredging, flood control, control of aquatic plants, shoreline stabilization):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Office of Policy, Safety, and Environment (effects of energy policies, programs and projects on watersheds).

Department of the Interior

• Fish and Wildlife Service (effects of soil erosion and watershed protection on endangered species and critical habitats, and on fish and wildlife resources in general):

—Consultation regarding small watershed projects of the Soil Conservation Service under the Watershed Protection and Flood Protection and Flood Prevention Act. 16 U.S.C. 1008.

• Geological Survey (geology and hydrology in general; National Water Summary; erosion and sedimentation; engineering geology).

• Bureau of Indian Affairs (soil conservation and watershed protection on Indian lands).

• Bureau of Land Management (watershed protection and soil conservation on public lands).

• Bureau of Mines (hydraulic impacts of mining; revegetation and reclamation after mining).

• National Park Service (watershed protection and soil conservation on National Park System lands):

—Special use permits, grazing permits, permits to collect soil, rock, water, and plant specimens. 16 U.S.C. 1, *et seq.* (36 CFR Parts 1, 2 and 7).

• Bureau of Reclamation (soil and moisture conservation; hydrology; erosion control on public lands; water storage and delivery project; water resources research; analysis of Federal role in groundwater management).

• Office of Surface Mining Reclamation and Enforcement (effects of surface coal mining and reclamation operations on erosion, aquifers and alluvial valley floors).

Department of Transportation

• Federal Highway Administration (erosion control on highway projects; vegetation management on highway rights-of-way; highway drainage problems on watersheds).

Advisory Council on Historic Preservation (effects of watershed protection activities on historic properties).

Environmental Protection Agency (watershed protection and soil conservation in relation to pollution control).

Federal Emergency Management Agency (floodplain mapping and management, mitigation of natural hazards).

Federal Energy Regulatory Commission (effects of power projects):

—Regulation of development of water resources. 16 U.S.C. 791–825[r] (18 CFR Parts 4–25, 36, 131 and 141).

National Aeronautics and Space Administration (advanced technology for remote sensing of watersheds and soils).

Tennessee Valley Authority (watershed protection and soil conservation in the Tennessee Valley region).

E. Forest, Range, and Vegetative Resources (Includes Development, Production, Harvest and Transport of These Renewable Resources)

Department of Agriculture

• Agricultural Research Service (forest and range management).

• Agricultural Stabilization and Conservation Service (renewable resource conservation programs; Forestry Incentives Program; Water Bank Program).

• Economic Research Service and Statistical Reporting Service (economic and statistical data on renewable resources).

• Extension Service (rural extension programs in renewable resource conservation and management).

• Farmers Home Administration (resource conservation and development loan programs).

• Forest Service (forest and grassland productivity in general; fire management; timber sale, free use of timber and other renewable resources, timber management activities and grazing habitat management in National Forests and Grasslands):

—Timber management. 16 U.S.C. 472, 528–531 and 1600–1614 (36 CFR Part 222).

—Grazing permits. 43 U.S.C. 1901 (36 CFR Part 222).

—Management and disposal of wild free-roaming horses and burros. 16 U.S.C. 1331–1340 (36 CFR Part 222, Subpart B).

• Soil Conservation Service (watershed resources protection; soil conservation technology).

Department of Commerce

• National Oceanic and Atmospheric Administration (coastal and marine resources management and development).

Department of Defense

• Army Corps of Engineers (effects of activities in the waters of the U.S. on renewable resources):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Bonneville Power Administration (renewable resource development in the Pacific Northwest):

—Regional planning and conservation. 16 U.S.C. 839, *et seq.*

Department of the Interior

• Fish and Wildlife Service (effects of agriculture, forestry, and other renewable resource activities on endangered species and their critical habitats, National Wildlife Refuges and National Fish Hatchery systems, and other fish and wildlife resources).

• Geological Survey (effects of renewable resource activities on water resources and erosion; remote sensing of vegetation).

• Bureau of Indian Affairs (forest, range, and vegetative resources on Indian lands):

—Permits for grazing on Indian lands and on Federal lands under BIA jurisdiction. 5 U.S.C. 301; 25 U.S.C. 179, 345, 380, 393–394, 397, 402–403 and 413 (25 CFR Parts 166–168).

—Sale of timber from tribal and allotted lands. 25 U.S.C. 406–407, 413 and 466 (25 CFR Part 163).

—Permits, concessions, and leases on lands withdrawn or acquired in connection with Indian irrigation projects. 25 U.S.C. 390 (25 CFR Part 173).

—Leases for farming and other uses on Federal lands under BIA jurisdiction. 5 U.S.C. 301; 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).

• Bureau of Land Management (forest, range and vegetative resources on public lands):

—Permits for use of rangelands. 43 U.S.C. 315 (43 CFR Group 4100).

—Sale by contract of timber and other forest products. 30 U.S.C. 601, *et seq.*; 43 U.S.C. 315, 423, and 118(a) (43 CFR Group 5400).

—Permits for free use of timber. 16 U.S.C. 604, *et seq.*; 30 U.S.C. 189; 48 U.S.C. 423 (43 CFR Part 5510).

—Management and control of wild free-roaming horses and burros and agreements for their adoption. 16 U.S.C. 1331–1340 (43 CFR Group 4700).

• National Park Service (effects of forest, range, and other vegetative resource activities on historical and recreational values and on National Park System areas):

—Permits for farming and grazing. 16 U.S.C. Chapter 1, *et seq.* (36 CFR Parts 1, 2 and 7).

• Bureau of Reclamation (water storage and delivery projects and irrigation projects in relation to forest, range, and other vegetative resource activities; evaluation of water policy alternatives):

—Sale of farm units on Federal irrigation projects (statutory authority appears in individual project authorizations).

• Office of Surface Mining Reclamation and Enforcement (effects of surface coal mining and reclamation operations on renewable resources):

—Protection of prime farmlands during surface coal mining and reclamation operations. 30 U.S.C. 1265 (30 CFR Parts 785.17 and 823).

Department of Transportation

• Federal Highway Administration (development of forest haul and access roads, effects of highway projects on forest, range, and other vegetative resources).

Advisory Council on Historic Preservation (effects of renewable resource activities on historic properties).

Environmental Protection Agency (effects of pollution, pesticide, and other environmental quality controls on forest, range, and other vegetative resources).

Interstate Commerce Commission (freight rates for renewable resources).

Tennessee Valley Authority (effects of hydro-electric and other power developments on forest, range, and other vegetative resources; biomass production and use).

F. Fish and Wildlife

Department of Agriculture

• Agricultural Research Service (basic and applied research in animal and plant protection).

• Agricultural Stabilization and Conservation Service (fish and wildlife in relation to agricultural conservation and the Water Bank Program).

• Animal and Plant Health Inspection Service (animal and plant health in general; control of pests and diseases):

—Prevention of importation or exportation of diseased livestock or poultry. 21 U.S.C. 102–105, 111 and 132(a)–134(f).

• Farmers Home Administration (effects of farm housing, community, and business programs on fish and wildlife; conservation loan programs).

• Forest Service (fish and wildlife habitat management in National Forests and Grasslands; use of fire in habitat management):

—Fish and wildlife management (36 CFR Part 219.19).

—Management and disposal of wild free-roaming horses and burros. 16 U.S.C. 1331–1340 (36 CFR Part 222, Subpart B).

—Permits for hunting and fishing in refuge areas. 16 U.S.C. 551 and 683.

• Soil Conservation Service (fish and wildlife habitat, fish ponds, and raceways):

—Assistance to State and local sponsors, through a Small Watershed Program grant, for reservoir developments and stream modification projects including specific fish and wildlife habitat improvements. 16 U.S.C. 1001, *et seq.*, and 33 U.S.C. 701–1.

Department of Commerce

• National Oceanic and Atmospheric Administration (endangered species and critical habitats; coastal fish and wildlife management and protection):

—Approval and funding of State coastal zone management programs. 16 U.S.C. 1451, *et seq.* (15 CFR Parts 923 and 930).

—For other jurisdictional responsibilities, see PART IV. B.—Marine Resources.

Department of Defense

• Army Corps of Engineers (fish and wildlife mitigation measures at public works and navigable waterway projects, dredge and fill permits):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

• Department of the Air Force (bird/aircraft strike hazard reduction).

Department of Energy

• Bonneville Power Administration (fish and wildlife management and enhancement on power projects in the Pacific Northwest):

—Regional planning and conservation. 16 U.S.C. 839, *et seq.*

Department of the Interior

• Fish and Wildlife Service (endangered species and their critical habitats; management of effects on fish and wildlife in general):

—Permits to take bald and golden eagles for scientific, religious and other purposes. 16 U.S.C. 668(a) (50 CFR Part 22).
—Permits for the taking and importation of marine mammals. 16 U.S.C. 1361, *et seq.* (50 CFR Part 18).
—Permits to export/import and to take for scientific and other purposes endangered or threatened wildlife and plants. 16 U.S.C. 1531, *et seq.* (50 CFR Part 17).
—Permits for the importation of injurious mammals, birds, fish and other wildlife. 18 U.S.C. 42–44 (40 CFR Part 16.22).
—Permits for export/import and interstate transportation of wildlife. 18 U.S.C. 42, *et seq.* (50 CFR Part 14).
—Permits for the banding and marking of migratory birds. 16 U.S.C. 703–711 (50 CFR Part 21.22).
—Consultations regarding Federal projects that may affect an estuarine area. 15 U.S.C. 1224.
—Permits to perform taxidermy services on migratory birds, nests and eggs for commercial uses. 16 U.S.C. 704 (50 CFR Part 21.24).
—Permits for special purpose uses of migratory birds. 16 U.S.C. 701, *et seq.* (50 CFR Part 21.27).
—Certificates or permits of exception to Convention on International Trade in Endangered Species. 16 U.S.C. 1531–1543 (50 CFR Part 23).
—Consultations regarding projects which may effect any threatened or endangered species or its critical habitats. 16 U.S.C. 1531, *et seq.* (50 CFR Part 402).
—Determination of critical habitats for endangered and threatened species of fish, wildlife, and plants. 16 U.S.C. 1531, *et seq.* (50 CFR Parts 17, 402 and 424).
—Endangered species exemption process. 16 U.S.C. 1531, *et seq.* (50 CFR Parts 450–453).
—Consultation regarding Federal or federally permitted projects which affect fish and wildlife resources under the Fish and Wildlife Coordination Act. 16 U.S.C. 661, *et seq.*
—U.S. Fish and Wildlife Service Mitigation Policy. 16 U.S.C. 661–667(e), 742(a)–754 and 1001–1009 (see 46 FR 7644 of Jan. 23, 1981).
—Restoration and enhancement of anadromous fishery resources through grants for fish ladders, new anadromous fish hatcheries, new fishways, etc. 16 U.S.C. 742(a)–742(j) (50 CFR Part 401).
—Improvement of sport fishery resources through grants to States under the Dingell-Johnson (D–J) Program. 16 U.S.C. 777–777(k) (50 CFR Part 80).
—Restoration and enhancement of wildlife populations and resources through grants to States under the Pittman-Robertson (P–R) Program. 16 U.S.C. 669, *et seq.* (50 CFR Part 80).
—Approval of conversion of use for State lands acquired, developed or improved with grants under the (1) Pittman-Robertson Act, (2) Dingell-Johnson Act, (3) Endangered Species Act and/or (4) Anadromous Fish Conservation Act. For (1)—16 U.S.C. 669 (50 CFR Parts 80.4 and 80.14); for (2)—16 U.S.C. 777 (50 CFR Parts 80.4 and 80.14); (3)—16 U.S.C. 1535; and for (4)—16 U.S.C. 757 (a) and (b).
—Land acquisition, management, and other activities for endangered and threatened species through grants to States. 16 U.S.C. 1531–1543 (50 CFR Part 81).
—Consultation concerning the protection of fish and wildlife refuges which may be impacted by transportation projects. 49 U.S.C. 303.

• Geological Survey (water quality and quantity in relation to fish and wildlife resources).

• Bureau of Indian Affairs (fish and wildlife resource management on Indian lands; off-reservation treaty fishing).

• Bureau of Land Management (fish and wildlife management on public lands; wild horses and burros; endangered species and raptors; effects on fish and wildlife of power lines and other major projects crossing public lands):
—Management and disposal of wild free-roaming horses and burros. 16 U.S.C. 1331–1340 (43 CFR Part 4700).

• National Park Service (fishing, hunting and other outdoor recreational pursuits, fish and wildlife management in National Park System areas):
—Permits for collecting animal specimens from National Park System areas. 16 U.S.C. 1, *et seq.* (36 CFR Part 2).
—Licenses and permits for sport or commercial fishing in certain National Park System areas. (36 CFR Part 2).
—Disposition of surplus animals from National Park System areas. (36 CFR Part 10).

• Bureau of Reclamation (fish and wildlife management on water storage and delivery projects; hunting and fishing on project lands; mitigation measures; limnology).

• Office of Surface Mining Reclamation and Enforcement (effects of surface mining and reclamation operations on fish and wildlife).

Department of Health and Human Services

• Public Health Service: Centers for Disease Control (fish and wildlife in relation to human health); Food and Drug Administration (contamination of fish and shellfish with toxics).

Department of State (international issues concerning fish and wildlife, including migratory birds and marine mammals).

Department of Transportation

• Office of the Secretary (general effects of transportation projects on fish and wildlife refuges):
—Approval of transportation programs or projects that require the use of or have a significant impact on wildlife and waterfowl refuges. 49 U.S.C. 303.

• Federal Highway Administration (effects of highway projects on fish and wildlife habitat, and wildlife and waterfowl refuges):
—Preservation of park and recreation areas, and wildlife and waterfowl refuges. 23 U.S.C. 138 (23 CFR Part 771).

• Federal Aviation Administration (bird-aircraft strike hazard reduction).

• Coast Guard (enforcement of laws affecting Fishery Management Zones).

Environmental Protection Agency (effects of pollution control and water quality on fish and wildlife).

Marine Mammal Commission (conservation and protection of marine mammals and their habitat):
—Consultation and oversight responsibility for activities affecting marine mammals. 16 U.S.C. 1402.
—Review of permit applications for taking and importation of marine mammals and marine mammal products. 16 U.S.C. 1371(a).

National Science Foundation (conservation of antarctic animals, plants, and ecosystems):
—Permits for the taking or collecting of Antarctic animals and plants, and for entry into certain designated areas. 16 U.S.C. 2401, *et seq.* (45 CFR Part 670)

Tennessee Valley Authority (fish and wildlife management and conservation in the Tennessee Valley).

G. Non-Energy Mineral Resources

Department of Agriculture

• Forest Service (mineral resources development in National Forests and Grasslands; reclamation of disturbed lands):
—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471–472, 478, 495, 497–498, 525, 528, 531–538, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).
—Surface use of public domain lands under U.S. mining laws. 16 U.S.C. 478 and 551 (36 CFR Part 228).
—Mineral development on acquired lands. For solid (hardrock) minerals—16 U.S.C. 520 (43 CFR Part 3500); for phosphate, sodium, potassium and sulphur—30 U.S.C. 351, *et seq.*

• Soil Conservation Service (abandoned mine land and mine reclamation).

Department of Commerce

• National Oceanic and Atmospheric Administration (air and water pollution from mining; offshore and coastal mining; port planning; management and protection of coastal and marine resources):
—Approval of licenses for deep seabed hard mineral exploration and development. 30 U.S.C. 1401, *et seq.* (15 CFR Part 970).

Department of Defense

• Army Corps of Engineers (effects of mineral development on navigable waters):
—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Housing and Urban Development

• Office of Housing (subsidence from mining operations and soil factors related to housing).

Department of the Interior

• Fish and Wildlife Service (effects of mineral development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery Systems, and other fish and wildlife resources):
—Easements/permits for transmission line, pipelines and other rights-of-way across National Wildlife Refuge and National Fish Hatchery System land. For refuges—16 U.S.C. 668 dd, *et seq.*; for hatcheries—43

U.S.C. 931 c and (50 CFR Parts 25.41 and 29.21).
—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k–3) and 742(f) (50 CFR Part 96).

• Geological Survey (mineral resources in general, with emphasis on strategic and critical minerals; mineral resources assessment on public lands).

• Bureau of Indian Affairs (effects on Indian lands of mineral operations):
—Leases and permits on Indian lands. 25 U.S.C. 380, 393–395, 397, 402–403, 413, 415, 477 and 635 (25 CFR Part 162).
—Rights-of-way over Indian lands. 25 U.S.C. 311–321 and 323–328 (25 CFR Part 169).
—Mining leases on Indian lands. 25 U.S.C. 356, 396, 476–477 and 509 (25 CFR Parts 211–215 and 226–227).
—Permits for surface exploration and reclamation. 25 U.S.C. 355, 396, 473 and 501–502 (25 CFR Part 216).

• Bureau of Land Management (mineral development on public lands):
—Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapters 2000 and 3000).
—Exploration licenses for leasable minerals on unleased land. 30 U.S.C. 181, *et seq.* and 201(b) (43 CFR Parts 3400 and 3480).
—Leases for phosphate, sodium, potassium, etc., exploration and mining. 30 U.S.C. 181, *et seq.* (43 CFR Group 3500 and Part 3570).
—Permits for sand, stone and gravel. 30 U.S.C. 601 and 602.
—Leases, permits and licenses for mining in Wild and Scenic River System areas. 16 U.S.C. 1280 (each area has special Federal Regulations).
—Concurrence for placer mining use of the surface of public lands withdrawn or reserved for power development or for a power site. 30 U.S.C. 621 (43 CFR Part 3730).
—Leases and permits for sulfur in Louisiana and New Mexico. 30 U.S.C. 271, *et seq.* (43 CFR Group 3500).
—Easements/permits for rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800–2887).

• Minerals Management Service (mineral development on the outer continental shelf):
—Leases for minerals on the outer-continental shelf. 43 U.S.C. 1331–1343 (30 CFR Parts 250, 251, 252 and 256).
—Permits for exploration and development activities on Federal leases on the outer continental shelf. 43 U.S.C. 1331, *et seq.* (30 CFR Parts 250 and 251).
—Permits for geological and geophysical exploration on the outer continental shelf. 43 U.S.C. 1334 (30 CFR Part 251).
—Approval of geological geophysical exploration plans. 43 U.S.C. 1340 (30 CFR Part 251).
—Permits for artificial islands, platforms, and other fixed structures on any Federal or State outer continental shelf lease. 43 U.S.C. 1334–1335 (30 CFR 250.18 and 250.19).

• Bureau of Mines (mining, milling, and mineral land assessments):
—Agreements to dispose of helium of the United States. 43 U.S.C. 1201 and 30 U.S.C. 180, *et seq.* (43 CFR Part 16).

• National Park Service (effects of mineral development on public park, recreation and cultural/historical resources and values, and on National Park System areas):
—Permits, leases and easements for rights-of-way, grazing and other uses on National Park System areas. 16 U.S.C. 1, *et seq.* (36 CFR Parts 9 and 14).
—Leases, permits and licenses for mining on National Park System lands involved in National Wild and Scenic Rivers System. 16 U.S.C. 1280.
—Access permits for mining activity within the National Park System. 16 U.S.C. 1902 and 1908; 30 U.S.C. 21, *et seq.* (36 CFR Part 9).

• Bureau of Reclamation (effects of mineral development on water storage and delivery projects):
—Easements/permits for access, pipeline, and other rights-of-way. 43 U.S.C. 3871.

Department of Labor

• Mining Safety and Health Administration (safety and health issues in mining operations).

• Occupational Safety and Health Administration (general worker safety and health issues).

Department of State (international aspects of mineral development):
—Facilities for export/import of minerals. Executive Order 11423.

Department of Transportation

• Coast Guard (vessel transport of minerals):
—Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).

• Maritime Administration (dry bulk shipping of coal and other minerals in the inland waterways, domestic ocean, Great Lakes, and U.S. foreign trades).

Advisory Council on Historic Preservation (effects of mineral development activities on historic properties).

Environmental Protection Agency (pollution control and other environmental effects of minerals development):
—For jurisdictional responsibilities, see PART I—POLLUTION CONTROL.

H. Natural Resource Conservation

Department of Agriculture

• Agricultural Stabilization and Conservation Service (natural resource conservation programs; Forestry Incentives Program; Water Bank Program).

• Agricultural Research Service (research in technical aspects of soil and water conservation and forest and range management).

• Extension Service (rural area extension programs in conservation).

• Farmers Home Administration (farmer loan programs related to natural resource conservations).

• Forest Service (conservation of forest and rangeland resources; use of fire as a management tool).

• Soil Conservation Service (soil, water, and related resources conservation technology):
—Land conservation and utilization program. 7 U.S.C. 1010, *et seq.*
—Watershed protection, conservation and utilization of land and water resources. 16 U.S.C. 1001, *et seq.*
—Soil and water resources conservation. 16 U.S.C. 2001, *et seq.*

Department of Commerce

• National Oceanic and Atmospheric Administration (coastal and marine resources management and protection; national estuarine and marine sanctuaries; coastal energy facility planning and siting in State coastal zone management programs).

Department of Energy

• Bonneville Power Administration (resource conservation in the Pacific Northwest):
—Regional planning and conservation. 16 U.S.C. 839, *et seq.*

• Office of Policy, Safety, and Environment (general energy policies, programs and projects in relation to conservation).

Department of the Interior

• Fish and Wildlife Service (conservation of, and effects of conservation on, endangered species and their critical habitats, and other fish and wildlife resources; conservation in National Wildlife Refuge and National Fish Hatchery System areas).

• Geological Survey (conservation of water and mineral resources).

• Bureau of Indian Affairs (conservation of Indian lands).

• Bureau of Land Management (conservation on public lands).

• Minerals Management Service (conservation in relation to minerals management activities on the outer continental shelf).

• Bureau of Mines (conservation of mineral resources and land, air, and water resources associated with mineral deposits).

• National Park Service (conservation in relation to urban parks, outdoor recreation, historical and cultural resources, National Trails Systems, Wild and Scenic Rivers System, and the National Park System).

• Bureau of Reclamation (conservation in relation to water storage and delivery projects, water resources, and desalinization; Soil and Moisture Conservation Program; development of water policy options; National Water Summary).

• Office of Surface Mining Reclamation and Enforcement (conservation in relation to surface coal mining and reclamation operations).

Environmental Protection Agency (resource recovery from wastes; pollution and other environmental controls):
—Solid Waste Disposal Act permits. 42 U.S.C. 3251 *et seq.*, and 6901, *et seq.* (40 CFR Parts 122, 123 and 124).
—Guidelines on solid waste collection and storage for Federal assistance. 42 U.S.C. 6907 (40 CFR Part 243).

—Resource recovery facilities. 42 U.S.C. 6907 (40 CFR Part 245).
—Materials recovery and solid waste management guidelines for source separation. 42 U.S.C. 6907 (40 CFR Part 246).
—Solid waste management guidelines for beverage containers. 42 U.S.C. 6907 (40 CFR Part 244).

Federal Energy Regulatory Commission (relation of conservation to hydroelectric power development and natural gas facilities).

National Science Foundation (conservation of antarctic animals, plants, and ecosystems):
—Permits for the taking or collecting of antarctic animals and plants, and for entry into certain designated areas. 16 U.S.C. 2401, *et seq.* (45 CFR Part 670).

Tennessee Valley Authority (soil and other natural resource conservation in the Tennessee Valley region).

Appendix III—Federal and Federal-State Agency Offices for Receiving and Commenting on Other Agencies' Environmental Documents

DEPARTMENTS

Department of Agriculture

Send request to the Departmental office for comments on environmental documents about legislation, regulations, national program proposals or other major policy issues. For other comment requests, send to the listed office of the departmental components.

Assistant Secretary for Natural Resources and Environment, Department of Agriculture; Attn: Executive Secretary, Natural Resources and Environment Committee; Room 242–W, Administration Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 447–5166.

Department of Agriculture Components

Agricultural Research Service: Deputy Administrator, National Program Staff, Agricultural Research Service, Department of Agriculture, Room 125, Bldg. 005, Agricultural Research Center-West, Beltsville, MD 20705–2350. (301) 344–3084.

Agricultural Stabilization and Conservation Service: Chief, Planning and Evaluation Branch, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, Department of Agriculture, Room 4714, South Agriculture Bldg., P.O. Box 2415; Wash., D.C. 20013–2415. (202) 447–3264.

Animal and Plant Health Inspection Service: Environmental Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, Room 600, Federal Bldg., 6505 Belcrest Road, Hyattsville, MD 20782–2058. (301) 436–8896.

Economic Research Service: Director, Natural Resource Economics Division, Economic Research Service, Department of Agriculture, Room 412, GHI Bldg., 500 12th St., SW, Wash., D.C. 20250–0001. (202) 447–8239.

Extension Service: Deputy Administrator, Natural Resources and Rural Development, Extension Service, Department of Agriculture, Room 3909, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 447–7947.

Farmers Home Administration: Environmental Protection Specialist, Program Support Staff, Farmers Home Administration, Department of Agriculture, Room 6309, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 382–9619.

Food Safety and Inspection Service: Director, Regulations Office, Food Safety and Inspection Service, Department of Agriculture, Room 2940, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 447–3317.

Rural Electrification Administration: Environmental Policy Specialist, Engineering Standards Division, Rural Electrification Administration, Department of Agriculture, Room 1257, South Agriculture Bldg., 14th St. and Independence Ave., SW, Wash., D.C. 20250–0001. (202) 382–0097.

Soil Conservation Service: National Environmental Coordinator, Environmental Activities Branch, Ecological Sciences Division, Soil Conservation Service, Department of Agriculture, Room 6155, South Agriculture Bldg., P.O. Box 2890, Wash., D.C. 20013–2890. (202) 447–4912.

U.S. Forest Service

For actions of national or inter-regional scope, send comment request and documents to Wash., D.C. For actions of a regional, State or local scope, send comment request and documents to the Regional Forester and Area Director in whose area the proposed action (e.g., highway or water resource construction project) will take place.

Director, Environmental Coordination Staff, Forest Service, Department of Agriculture, Room 4204, South Agriculture Bldg., P.O. Box 2417, Wash., D.C. 20013–2417. (202) 447–4708.

Region 1, Northern Region (northern ID, MT, ND, and northwest SD): Regional Forester, Northern Region, Forest Service, USDA, Federal Bldg., P.O. Box 7669, Missoula, MT 59807–7669. (406) 329–3011; (FTS) 585–3316.

Region 2, Rocky Mountain Region (CO, KS, NE, SD, and eastern WY): Regional Forester, Rocky Mountain Region, Forest Service, USDA, 11177 W. 8th Ave., Box 25127, Lakewood, CO 80225–0127. (303) 234–3711.

Region 3, Southwestern Region (AZ, and NM): Regional Forester, Southwestern Region, Forest Service, USDA, Federal Bldg., 517 Gold Ave., SW, Albuquerque, NM 87102–3156. (505) 476–3300.

Region 4, Intermountain Region (southern ID, NV, UT, and western WY): Regional Forester, Intermountain Region, Forest Service, USDA, Federal Bldg., 324 25th St., Ogden, UT 84401–2310. (801) 625–5605; (FTS) 586–5605.

Region 5, Pacific Southwest Region (CA and HI): Regional Forester, Pacific Southwest Region, Forest Service, USDA, 630 Sansome St., San Francisco, CA 94111–2206. (415) 556–4310.

Region 6, Pacific Northwest Region (OR and WA): Regional Forester, Pacific Northwest Region, Forest Service, USDA, 319 SW Pine St., P.O. Box 3623, Portland, OR 97208–3623. (503) 211–3625; (FTS) 423–3625.

Region 8, Southern Region (AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, PR, and VI): Regional Forester, Southern Region, Forest Service, USDA, 1720 Peachtree Road, NW, Atlanta, GA 30367–9101. (404) 881–4177; (FTS) 257–4177.

Region 9, Eastern Region (CT, DE, IA, IL, IN, MA, MD, ME, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, WI, and WV): Regional Forester, Eastern Region, Forest Service, USDA, Henry S. Reuss Federal Plaza, Suite 500, 310 W. Wisconsin Ave., Milwaukee, WI 53203–2211. (414) 291–3693; (FTS) 362–3600.

Region 10, Alaska Region (AK): Regional Forester, Alaska Region, Forest Service, USDA, Federal Office Building, Box 1628, Juneau, AK 99802–1628. (907) 586–7263.

Northeastern State and Private Forestry Area (Same as Region 9, above): Director, Northeastern State and Private Forestry Area, Forest Service, USDA, 370 Reed Road, Broomall, PA 19008–4086. (215) 461–3125; (FTS) 489–3125.

(In Regions 1 through 6, 8 and 10, State and private activities of the Forest Service are handled at regional offices.)

Department of Commerce

Chief, Ecology and Conservation Division, Office of Policy and Planning, National Oceanic and Atmospheric Administration, Department of Commerce, Room H6111, Herbert Hoover Bldg., 14th St. and Constitution Ave., NW, Wash., D.C. 20230–0001. (202) 377–5181.

Department of Defense

Send comment request and documents about legislation, regulations, national program proposals or other major policy issues to Department of Defense, except for the Corps of Engineers. For other comment requests, send to the listed office of the departmental components.

Director, Environmental Policy, Office of the Assistant Secretary of Defense (Manpower, Installations and Statistics), Department of Defense, Room 3D833, The Pentagon, Wash., D.C. 20301–0001. (202) 695–7820.

Department of Defense Components

Defense Logistics Agency: Staff Director, Office of Installation Services and Environmental Protection, Defense Logistics Agency, Department of Defense, Cameron Station, Room 4D446, Alexandria, VA 22304–6100. (202) 274–6124.

Department of the Air Force: Deputy for Environment and Safety; Office of the Deputy Assistant Secretary for Installations, Environment and Safety; Department of the Air Force, Room 4C916, The Pentagon, Wash., D.C. 20330–0001. (202) 697–9297.

Department of the Army: Chief, Army Environmental Office; Attn: HQDA (DAEN-ZCE); Department of the Army, Room 1E676, The Pentagon, Wash., D.C. 20310–2600. (202) 694–3434.

Department of the Navy: Director, Environmental Protection and Occupational Safety and Health Division (OP–453), Office of the Chief of Naval Operations, Department of the Navy, Bldg. 200, Room S–3, Washington Navy Yard, Wash., D.C. 20374–0001. (202) 433–2426.

U.S. Marine Corps: Head, Land Resources and Environmental Branch, Code: LFL, U.S. Marine Corps, Commonwealth Bldg., Room 614, 1300 Wilson Blvd., Arlington, VA. (202) 694-9237/38. MAILING ADDRESS: Commandant, U.S. Marine Corps: ATTN: Land Resources and Environmental Branch, Code: LFL; Wash., D.C. 20380-0001.

Corps of Engineers

Send comment request and documents about legislation, regulations, national program proposals or other major policy issues to:

Assistant Director of Civil Works, Environmental Programs (DAEN-CWZ-P), Office of the Chief of Engineers, Room 7233, Pulaski Bldg., 20 Massachusetts Ave., NW, Wash., D.C. 20314-1000. (202) 272-0103.

Send comment request and documents for other Federal actions to the Corps' District Engineer or the Division Engineer, in the case of Pacific Ocean and New England Division, in whose area the action will take place. If the action involves more than one Corps District, increase number of copies accordingly but send all to District Engineer primarily involved. For a map showing the Corps' Division and District Boundaries, contact the Director of Civil Works cited above.

- Division Engineer, U.S. Army Corps of Engineers, New England Division, 424 Trapelo Rd., Waltham, MA 02254-9194. (617) 647-8220; (FTS) 839-7220.
- District Engineer, U.S. Army Corps of Engineers, New York District, 26 Federal Plaza, New York, NY 10278-0022. (212) 264-0100.
- District Engineer, U.S. Army Corps of Engineers, Philadephia District, U.S. Custom House, 2nd and Chestnut Sts., Philadelphia, PA 19106-2912. (215) 597-4848.
- District Engineer, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore MD 21203-1715. (301) 962-4545; (FTS) 922-4545.
- District Engineer, U.S. Army Corps of Engineers, Norfolk District, 803 Front St., Norfolk, VA 23510-1096. (804) 441-3601; (FTS) 827-3601.
- District Engineer, U.S. Army Corps of Engineers, Wilmington District, P.O. Box 1890, Wilmington, NC 28402-1890. (919) 343-4501; (FTS) 671-4501.
- District Engineer, U.S. Army Corps of Engineers, Charleston District, P.O. Box 919, Charleston, SC 29402-0919. (803) 724-4229; (FTS) 677-4229.
- District Engineer, U.S. Army Corps of Engineers, Savannah District, P.O. Box 889, Savannah, GA 31402-0889. (912) 944-5224; (FTS) 248-5224.
- District Engineer, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, FL 32201-4970. (904). 791-2241; (FTS) 946-2241.
- District Engineer, U.S. Army Corps of Engineers, Mobile District, P.O. Box 2288, Mobile, AL 26628-0001. (205) 690-2511; (FTS) 537-2511.
- District Engineer, U.S. Army Corps of Engineers, Vicksburg District, P.O. Box 60, Vicksburg, MS 39180-0060. (601) 634-5010; (FTS) 542-5010.
- District Engineer, U.S. Army Corps of Engineers, New Orleans District, P.O. Box 60267, New Orleans, LA 70160-0267. (504) 838-2204.
- District Engineer, U.S. Army Corps of Engineers, Memphis District, B-314 Clifford Davis Federal Bldg., Memphis, TN 38103-1816. (901) 521-3221; (FTS) 222-3221.
- District Engineer, U.S. Army Corps of Engineers, St. Louis District, 210 Tucker Blvd. North, St. Louis, MO 63101-1947. (314) 263-5660; (FTS) 273-5660.
- District Engineer, U.S. Army Corps of Engineers, Nashville District, P.O. Box 1070, Nashville, TN 37202-1070. (615) 251-5626; (FTS) 852-5626.
- District Engineer, U.S. Army Corps of Engineers, Louisville District, P.O. Box 59, Louisville, KY 40201-0059. (502) 582-5601; (FTS) 352-5601.
- District Engineer, U.S. Army Corps of Engineers, Huntington District, 502 8th St., Huntington, WV 25701-2070. (304) 529-5395; (FTS) 942-5395.
- District Engineer, U.S. Army Corps of Engineers, Pittsburgh District, William S. Moorehead Federal Bldg., 1000 Liberty Ave., Pittsburgh, PA 15222-4004. (412) 644-6800; (FTS) 722-6800.
- District Engineer, U.S. Army Corps of Engineers, Buffalo District, 1776 Niagara St. Buffalo, NY 14207-3199. (716) 876-5454, x2200; (FTS) 473-2200.
- District Engineer, U.S. Army Corps of Engineers, Chicago District, 219 S. Dearborn St., Chicago, IL 60604-1702. (312) 353-6400.
- District Engineer, U.S. Army Corps of Engineers, Rock Island District, Clock Tower Bldg., P.O. Box 2004, Rock Island, IL 61204-2004. (309) 788-6361, x6224; (FTS) 386-6011.
- District Engineer, U.S. Army Corps of Engineers, Detroit District, P.O. Box 1027, Detroit, MI 48231-1027. (313) 226-6762.
- District Engineer, U.S. Army Corps of Engineers, St. Paul District, 1135 USPO & Custom House, St. Paul, MN 55101-1479. (612) 725-7501.
- District Engineer, U.S. Army Corps of Engineers, Kansas City District, 700 Federal Bldg., 601 E. 12th St., Kansas City, MO 64106-2826. (816) 374-3201; (FTS) 758-3201.
- District Engineer, U.S. Army Corps of Engineers, Omaha District, 6014 USPO and Courthouse, Omaha, NE 68102-4910. (402) 221-3900; (FTS) 864-3900.
- District Engineer, U.S. Army Corps of Engineers, Little Rock District, P.O. Box 867, Little Rock, AR 72203-0867. (501) 378-5531; (FTS) 740-5531.
- District Engineer, U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121-0061. (918) 581-7311; (FTS) 745-7311.
- District Engineer, U.S. Army Corps of Engineers, Galveston District, P.O. Box 1229, Galveston, TX 77553-1229. (409) 766-3006; (FTS) 527-6006.
- District Engineer, U.S. Army Corps of Engineers, Fort Worth District, P.O. Box 17300, Fort Worth, TX 76102-0300. (817) 334-2300.
- District Engineer, U.S. Army Corps of Engineers, Albuquerque District, P.O. Box 1580, Albuquerque, NM 87103-1580. (505) 766-2732; (FTS) 474-2732.
- District Engineer, U.S. Army Corps of Engineers, Los Angeles District, P.O. Box 2711, Los Angeles, CA 90053-2325. (213) 688-5300; (FTS) 798-5300.
- District Engineer, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, CA 94105-1905. (415) 974-0358; (FTS) 454-0358.
- District Engineer, U.S. Army Corps of Engineers, Sacramento District, 650 Capitol Mall, Sacramento, CA 95814-4708. (916) 440-2232; (FTS) 448-2232.
- District Engineer, U.S. Army Corps of Engineers, Portland District, P.O. Box 2946, Portland, OR 97208-2946. (503) 221-6000; (FTS) 423-6000.
- District Engineer, U.S. Army Corps of Engineers, Walla Walla District, Bldg. 602, City-County Airport, Walla Walla, WA 99362-9265. (509) 525-6509, ext. 100; (FTS) 434-6509.
- District Engineer, U.S. Army Corps of Engineers, Seattle District, P.O. Box C-3755, Seattle, WA 98124-2255. (206) 764-3690; (FTS) 399-3690.
- District Engineer, U.S. Army Corps of Engineers, Alaska District, Pouch 898, Anchorage, AK 99506-0001. (907) 279-1132.
- Division Engineer, U.S. Army Corps of Engineers, Pacific Ocean Division, Building 230, Ft. Shafter, HA. 96858-4910. (808) 438-1500.

Department of Energy

Director, Office of Environmental Compliance (PE-25), Department of Energy, Room 4G-085, Forrestal Building, 1000 Independence Ave., SW, Wash., D.C. 20585-0001. (202) 252-4600.

Department of Health and Human Services

Departmental Environmental Officer, Office of Management Analysis and Systems, Department of Health and Human Services, Room 542 E, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Wash., D.C. 20201-0001. (202) 245-7354.

Department of Housing and Urban Development

Send comment request and documents about legislation, regulations, national program proposals and other major policy issues to Wash., D.C. Send comment request and documents about other Federal actions to the Regional Environmental Officer in whose area the action will take place.

Director, Office of Environment and Energy, Department of Housing and Urban Development, Room 7154, HUD Bldg., 451 Seventh St., SW, Wash., D.C. 20410-0001. (202) 755-7894.

Federal Region I: Regional Environmental Officer, U.S. Department of Housing and Urban Development, Bulfinch Bldg., 15 New Chardon St., Boston, MA 02114-2598. (617) 223-1620.

Federal Region II: Regional Environmental Officer, U.S. Department of Housing and Urban Development, 26 Federal Plaza, New York, NY 10278-0022. (212) 264-5806.

Federal Region III: Regional Environmental Officer, U.S. Department of Housing and Urban Development, Curtis Building, 148 S. 6th St., Philadelphia, PA 19106-3313. (215) 597-3903.

Federal Region IV: Regional Environmental Officer, U.S. Department of Housing and Urban Development, Richard B. Russell

Federal Bldg., 75 Spring St., SW, Atlanta, GA 30303–3309. (404) 221–5197; (FTS) 242–5197.

Federal Region V: Regional Environmental Officer, U.S. Department of Housing and Urban Development, 300 S. Wacker Dr., Chicago, IL 60606–6606. (312) 353–1696.

Federal Region VI: Regional Environmental Officer, U.S. Department of Housing and Urban Development, 221 W. Lancaster Ave., P.O. Box 2905, Ft. Worth, TX 76113–2905. (817) 870–5482; (FTS) 728–5482.

Federal Region VII: Regional Environmental Officer, U.S. Department of Housing and Urban Development, Professional Bldg., 1103 Grand Ave., Kansas City, MO 64106–2496. (816) 374–3192; (FTS) 758–3192.

Federal Region VIII: Regional Environmental Officer, U.S. Department of Housing and Urban Development, Executive Tower Bldg., 1405 Curtis St., Denver, CO 80202–2394. (303) 837–3102; (FTS) 327–3102.

Federal Region IX: Regional Environmental Officer, U.S. Department of Housing and Urban Development, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448. (415) 556–6642.

Federal Region X: Regional Environmental Officer, U.S. Department of Housing and Urban Development, 3051 Arcade Plaza Building, 1321 Second Ave., Seattle, WA 98101–2058. (206) 442–4521; (FTS) 399–4521.

Department of the Interior

Director, Office of Environmental Project Review, Department of the Interior, Room 4241, Interior Bldg., 18th and C Sts., NW, Wash., D.C. 20240–0001. (202) 343–3891.

Department of Labor

Director, Office of Regulatory Economics, Assistant Secretary for Policy, Department of Labor, Room S–2312, Frances Perkins Bldg., 200 Constitution Ave., NW, Wash., D.C. 20210–0001. (202) 523–6197.

Department of State

Director, Office of Environment and Health, Department of State, Room 4325, State Department Bldg., 21st and C Sts., NW, Wash., D.C. 20520–0001. (202) 632–9266.

Department of Transportation

For documents about legislation, regulations, national program proposals and any action with national policy implications, send comment request and documents to DOT's Office of Economics shown below. For an action which may involve more than one modal administration within DOT, send comment request and documents to the DOT Regional Secretarial Representative in whose area the action will take place. If the action involves more than one region, send request to each Regional Secretarial Representative (DOT will coordinate to provide a consolidated response). For an action which may involve only one modal administration, send comment request and documents to the regional office of the modal administration in whose area the action will take place but, if in doubt, send material to DOT's Regional Secretarial Representative.

Deputy Director for Environment and Policy Review, Office of Economics, Department of Transportation, Room 10309, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–4357.

DOT Regional Secretarial Representatives

Federal Regions I, II and III: Secretarial Representative, U.S. Department of Transportation, Independence Bldg., Suite 1000, 430 Walnut St., Philadelphia, PA 19106–3714. (215) 597–9430.

Federal Region IV: Secretarial Representative, U.S. Department of Transportation, Suite 515, 1720 Peachtree Rd., NW, Atlanta, GA 30309–2405. (404) 881–3738; (FTS) 257–3738.

Federal Region V: Secretarial Representative, U.S. Department of Transportation, Room 700, 300 S. Wacker Dr., Chicago, IL 60606–6607. (312) 353–4000.

Federal Region VI: Secretarial Representative, U.S. Department of Transportation, Room 7A29, 819 Taylor St., Fort Worth, TX 76102–6114. (817) 334–2725.

Federal Regions VII and VIII: Secretarial Representative, U.S. Department of Transportation, Room 634, 601 E. 12th St., Room 634, Kansas City, MO 64106–2879. (816) 374–5801; (FTS) 758–5801.

Federal Regions IX and X: Secretarial Representative, U.S. Department of Transportation, Room 1005, 211 Main St., San Francisco, CA 94105–1924. (415) 974–8464; (FTS) 454–8464.

Federal Aviation Administration

New England Region (CT, ME, MA, NH, RI, and VT): Regional Director, Federal Aviation Administration, 12 New England Executive Park, P.O. Box 510, Burlington, MA 01803–0933. (617) 273–7244; (FTS) 836–1244.

Eastern Region (DE, DC, MD, NJ, NY, PA, VA, and WV): Regional Director, Federal Aviation Administration, Fitzgerald Building, JFK International Airport, Jamaica, NY 11430–2181. (212) 917–1005; (FTS) 667–1005.

Southern Region (AL, FL, GA, KY, MS, NC, PR, Republic of Panama, SC, and TN): Regional Director, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320–0636. (404) 763–7222; (FTS) 246–7222.

Great Lakes Region (IL, IN, MI, MN, ND, OH, SD, and WI): Regional Director, Federal Aviation Administration, 2300 East Devon Ave., Des Plaines, IL 60018–4686. (312) 694–7294; (FTS) 384–7294.

Southwest Region (AR, LA, NM, OK, and TX): Regional Director, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101–1689. (817) 877–2100; (FTS) 734–2100.

Central Region (IA, KS, MO, and NE): Regional Director, Federal Aviation Administration, 601 E. 12th St., Kansas City, MO 64106–2694. (816) 374–5626; (FTS) 758–5626.

Western-Pacific Region (AZ, CA, HI, and NV): Regional Director, Federal Aviation Administration, P.O. Box 92007, World Way Postal Center, Los Angeles, CA 90009–2007. (213) 536–6427; (FTS) 966–6427.

Northwest Mountain Region (CO, ID, MT, OR, UT, WA, and WY): Regional Director, Federal Aviation Administration, 17900 Pacific Highway South, Seattle, WA 98168–0966. (206) 431–2001; (FTS) 446–2001.

Alaskan Region (AK): Regional Director, Federal Aviation Administration, P.O. Box 14, 701 C St., Anchorage, AK 99513–0001. (907) 271–5645.

Federal Highway Administration

Federal Regions I and II: Regional Administrator, Federal Highway Administration, 729 Leo W. O'Brien Federal Bldg., Clinton Ave. and N. Pearl St., Albany, NY. 12207–2396. (518) 472–6476; (FTS) 562–6476.

Federal Region III: Regional Administrator, Federal Highway Administration, Room 1633, George H. Fallon Federal Office Building, 31 Hopkins Plaza, Baltimore, MD 21201–2825. (301) 962–0093; (FTS) 922–2773.

Federal Region IV: Regional Administrator, Federal Highway Administration, Suite 200, 1720 Peachtree Road, NW, Atlanta, GA 30309–2405. (404) 881–4078; (FTS) 257–4078.

Federal Region V: Regional Administrator, Federal Highway Administration, 18209 Dixie Highway, Homewood, IL 60430–2205. (312) 799–6300; (FTS) 370–9102.

Federal Region VI: Regional Administrator, Federal Highway Administration, 819 Taylor St., Fort Worth, TX 76102–6187 (817) 334–3908; (FTS) 334–3232.

Federal Region VII: Regional Administrator, Federal Highway Administration, 6301 Rockhill Rd., Kansas City, MO 64131–1117. (816) 926–7563; (FTS) 926–7490.

Federal Region VIII: Regional Administrator, Federal Highway Administration, 555 Zang St., P.O. Box 25246, Denver, CO 80225–0246. (303) 234–4051.

Federal Region IX: Regional Administrator, Federal Highway Administration, 211 Main St., Room 1100, San Francisco, CA 94105–1905. (415) 974–8450; (FTS) 454–8450.

Federal Region X: Regional Administrator, Federal Highway Administration, Room 412, Mohawk Building, 708 S.W. Third St., Portland, OR 97204–2489. (503) 221–2053; (FTS) 423–2065.

Federal Railroad Administration: Director, Office of Economic Analysis (RRP–30), Federal Railroad Administration, Room 8300, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–7391.

Maritime Administration: Head, Environmental Activities Group (MAR–700.4), Maritime Administration, Room 2120, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–5739.

National Highway Traffic Safety Administration: Assistant Chief Counsel for General Law, Office of Chief Counsel (NOA–33), National Highway Traffic Safety Administration, Room 5219, Nassif Bldg., 400 Seventh St., SW, Wash., D.C. 20590–0001. (202) 426–1834.

Research and Special Programs Administration (includes Materials Transportation Bureau): Chief, Environmental Technology Division (DTS–48), Research and Special Programs Administration, US-DOT, Transportation Systems Center, Room 3–55, Kendall Square, Cambridge, MA 02142–1001. (617) 494–2018; (FTS) 837–2018.

St. Lawrence Seaway Development Corporation: Deputy Chief Engineer, St. Lawrence Seaway Development Corporation, Seaway Administration Bldg., 180 Andrews

St., P.O. Box 520, Massena, NY 13662–1760. (315) 764–3256; (FTS) 953–0256.

United States Coast Guard: Chief, Environmental Compliance and Review Branch (G–WP–3), Office of Marine Environment and Systems, U.S. Coast Guard, 2100 2nd St., SW, Wash., D.C. 20593–0001. (202) 426–3300.

District I (MA, ME, NH, RI, and eastern VT): Commander, First Coast Guard District, 150 Causeway St., Boston, MA 02114–1391. (617) 223–3603; (FTS) 223–3644.

District II (Northern AL, AR, CO, IL, IN, KY, KS, MN, MO, northern MS, ND, NE, OH, OK, western PA, SD, TN, WI, WV, and WY (except Great Lakes Area)): Commander, Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103–2398. (314) 425–4601; (FTS) 279–4601.

District III (CT, DE, NJ, eastern NY, eastern PA, and western VT): Commander, Third Coast Guard District, Governors Island, New York, NY 10004–5000. (212) 668–7196; (FTS) 664–7196.

District V (DC, MD, NC, and VA): Commander, Fifth Coast Guard District, Federal Bldg., 431 Crawford St., Portsmouth, VA 23704–5000. (804) 398–6000; (FTS) 827–9000.

District VII (Eastern FL, eastern GA, PR, SC, and VI): Commander, Seventh Coast Guard District, Room 1018, Federal Bldg., 51 SW 1st Ave., Miami, FL 33130–1608. (305) 350–5654.

District VIII (Southern AL, western FL, western GA, LA, southern MS, NM, and TX): Commander, Eighth Coast Guard District, Hale Boggs Federal Bldg., 500 Camp St., New Orleans, LA 70130–3313. (504) 589–6298; (FTS) 682–6298.

District IX (Great Lakes Area): Commander, Ninth Coast Guard District, 1240 E. 9th St., Cleveland, OH 44199–2060. (216) 522–3910; (FTS) 293–3910.

District XI (AZ, southern CA, southern NV, and southern UT): Commander, Eleventh Coast Guard District, Union Bank Bldg., 400 Oceangate Blvd., Long Beach, CA 90822–5399. (213) 590–2311; (FTS) 984–9311.

District XII (northern CA, northern NV, and northern UT): Commander, Twelfth Coast Guard District, Government Island, Alameda, CA 94501–9991. (415) 437–3196; (FTS) 536–3196.

District XIII (ID, MT, OR, and WA): Commander, Thirteenth Coast Guard District, Federal Bldg., 915 2nd Ave., Seattle, WA 98174–1001. (206) 442–5078; (FTS) 399–5078.

District XIV (AS, GU, HI, and TP): Commander, Fourteenth Coast Guard District, 9th Floor Prince Kalanianaole Federal Bldg., 300 Ala Moana Blvd., Honolulu, HI 96813–4982. (808) 546–5531.

District XVII (AK): Commander, Seventeenth Coast Guard District, P.O. Box 3–5000, Juneau, AK 99802–1217. (907) 586–2680.

Urban Mass Transportation Administration

Federal Region I: Regional Administrator, Urban Mass Transportation Administration, Transportation Systems Center, Room 921 55 Broadway, Cambridge, MA 02142–1001. (617) 494–2055; (FTS) 837–2055.

Federal Region II: Regional Administrator, Urban Mass Transportation Administration, 26 Federal Plaza, Suite 14–110, New York, NY 10278–0022. (212) 264–8162.

Federal Region III: Regional Administrator, Urban Mass Transportation Administration, Suite 1010, 434 Walnut St., Philadelphia, PA 19106–3790. (215) 597–8098.

Federal Region IV: Regional Administrator, Urban Mass Transportation Administration, Suite 400, 1720 Peachtree Road, NW, Atlanta, GA 30309–2472. (404) 881–3948; (FTS) 257–3948.

Federal Region V: Regional Administrator, Urban Mass Transportation Administration, Suite 1720, 300 S. Wacker Dr., Chicago, IL 60606–6755. (312) 353–2789.

Federal Region VI: Regional Administrator, Urban Mass Transportation Administration, Suite 9A32, 819 Taylor St., Dallas, TX 76102–6160. (817) 334–3787.

Federal Region VII: Regional Administrator, Urban Mass Transportation Administration, Suite 100, 6301 Rockhill, Rd., Kansas City, MO 64131–1117. (816) 926–5053.

Federal Region VIII: Regional Administrator, Urban Mass Transportation Administration, Prudential Plaza, Suite 1822, 1050 17th Street, Denver, CO 80265–1896. (303) 837–3242; (FTS) 327–3242.

Federal Region IX: Regional Administrator, Urban Mass Transportation, Room 1160, 211 Main St., San Francisco, CA 94105–1971. (415) 974–7313; (FTS) 454–7313.

Federal Region X: Regional Administrator, Urban Mass Transportation Administration, Suite 3142, 915 Second Avenue, Seattle, WA 98174–1001. (206) 442–4210; (FTS) 399–4210.

Department of Treasury

Manager, Environmental Quality, Physical Security and Safety Division, Department of the Treasury, Room 800, Treasury Bldg., 1331 G St., NW, Wash., D.C. 20220–0001. (202) 376–0289.

INDEPENDENT AGENCIES

ACTION

Assistant Director, Office of Policy and Planning, ACTION, Room M–606, 806 Connecticut Ave., NW, Wash., D.C. 20525–0001. (202) 634–9304; WATS #800–424–8580, ext. 81.

Advisory Council on Historic Preservation

Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, Old Post Office Building, Suite 803, 1100 Pennsylvania Ave., NW, Wash., D.C. 20004–2590. (202) 786–0505.

Appalachian Regional Commission

Director, Division of Housing and Community Development, Appalachian Regional Commission, 1666 Connecticut Ave., NW, Wash., D.C. 20235–0001. (202) 673–7845.

Civil Aeronautics Board

Chief, Environmental and Energy Programs (B–60C), Civil Aeronautics Board, Room 909, Universal Bldg., 1825 Connecticut Ave., NW, Wash., D.C. 20428–0001. (202) 426–9622.

Consumer Product Safety Commission

Assistant General Counsel, Office of the General Counsel, Consumer Product Safety Commission, Room 200, 5401 Westbard Ave., Bethesda, MD. (301) 492–6980. MAILING ADDRESS: Washington, D.C. 20207–0001.

Delaware River Basin Commission

Executive Director, Delaware River Basin Commission, 25 State Police Drive, P.O. Box 7360, West Trenton, NJ 08628–0360. (609) 883–9500; (FTS) 483–2077.

Environmental Protection Agency

Send comment request and documents about legislation, regulations, national program proposals and other major policy issues to Wash., D.C. Send comment request and documents about other Federal actions to the Federal Regional Administrator in whose area the action will take place. If the action involves more than one region, increase number of copies accordingly but send to the region primarily involved.

Director, Office of Federal Activities, Environmental Protection Agency, Room 2119–I, 401 M St., SW, Wash., D.C. 20460–0001. (202) 382–5053.

Federal Region I: Regional Administrator, U.S. Environmental Protection Agency, Room 2203, John F. Kennedy Federal Bldg., Boston, MA 02203–0001. (617) 223–7210.

Federal Region II: Regional Administrator, U.S. Environmental Protection Agency, Room 900, 26 Federal Plaza, New York, NY. 10278–0014. (212) 264–2525.

Federal Region III: Regional Administrator, U.S. Environmental Protection Agency, Curtis Bldg., 6th and Walnut Sts., Philadelphia, PA 19106–3310. (215) 597–9800.

Federal Region IV: Regional Administrator, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30365–2401. (404) 257–4727.

Federal Region V: Regional Administrator, U.S. Environmental Protection Agency, 230 S. Dearborn St., Chicago, IL 60604–1590. (312) 353–2000.

Federal Region VI: Regional Administrator, U.S. Environmental Protection Agency, 1201 Elm St., Dallas, TX 75270–2180. (214) 767–2600; (FTS) 729–2600.

Federal Region VII: Regional Administrator, U.S. Environmental Protection Agency, 324 E. 11th St., Kansas City, MO 64106–2467. (816) 374–5493; (FTS) 758–5493.

Federal Region VIII. Regional Administrator, U.S. Environmental Protection Agency, Suite 900, Lincoln Tower, 1860 Lincoln Street, Denver, CO 80295–0699. (303) 837–3895; (FTS) 327–3895.

Federal Region IX: Regional Administrator, U.S. Environmental Protection Agency, 215 Freemont St., San Francisco, CA 94105–2399. (415) 974–8153; (FTS) 454–8153.

Federal Region X: Regional Administrator, U.S. Environmental Protection Agency, 1200 Sixth Ave., Seattle, WA 98101–3188. (206) 442–5810; (FTS) 399–5810.

Federal Emergency Management Agency

Associate General Counsel, Federal Emergency Management Agency, Room 840, 500 C St., SW, Wash., D.C. 20472–0001. (202) 287–0387.

Federal Energy Regulatory Commission

Send comment requests and documents about legislation, regulations, national program proposals, major policy issues and Federal actions to:

For electric and hydroelectric matters—Director, Division of Environmental Analysis, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 308, Railway Labor Building, 400 First St., NW, Wash., D.C. 20426–0001. (202) 376–1768.

For natural gas matters—Chief, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, Room 7102A, 825 N. Capitol St., NE, Wash., D.C. 20426–0001. (202) 357–8088.

Federal Maritime Commission

Director, Office of Energy and Environmental Impact, Federal Maritime Commission, 1100 L St., NW, Wash., D.C. 20573–0001. (202) 523–5835.

Federal Trade Commission

Deputy Assistant General Counsel, Federal Trade Commission, Room 582, 6th St. and Pennsylvania Ave., NW, Wash., D.C. 20580–0001. (202) 523–1928.

General Services Administration

Send comment requests and documents about legislation, regulations, national program proposals and other major policy issues to Washington, D.C. Send comment requests and documents about other Federal actions to the regional office having responsibility for the area in which the action will take place.

Director, Environmental Affairs Staff (PRE), Office of Space Management, Public Buildings Service, General Services Administration, Room 2323, 18th and F Sts., NW, Wash., D.C. 20405–0001. (202) 566–0654.

Federal Region I: Chief, Planning Staff (1PEP) Public Buidings and Real Property, General Services Administration, John W. McCormack Post Office and Courthouse, Boston, MA 02109–4559. (617) 223–2707.

Federal Region II: Chief, Planning Staff (2PEP) Public Buildings and Real Property, General Services Administration, 26 Federal Plaza, New York, NY 10278–0022. (212) 264–3544.

Federal Region III: Chief, Planning Staff (3PEP) Public Buildings and Real Property, General Services Administration, 9th and Market Sts., Philadelphia, PA 19107–4269. (215) 597–0268.

Federal Region IV: Chief, Planning Staff (4PEP) Public Buildings and Real Property, General Services Administration, 75 Spring St., SW, Atlanta, GA 30303–3309. (404) 221–3080; (FTS) 242–3080.

Federal Region V: Chief, Planning Staff (5PEP) Public Buildings and Real Property, General Services Administration, 230 S. Dearborn St., Chicago, IL 60604–1602. (312) 353–5610.

Federal Region VI: Chief, Planning Staff (6PEP) Public Buildings and Real Property, General Services Administration, 1500 E. Bannister Rd., Kansas City, MO 64131–3087. (816) 926–7240.

Federal Region VII: Chief, Planning Staff (7PEP) Public Buildings and Real Property, General Services Administration, 819 Taylor St., Fort Worth, TX 76102–6114. (817) 334–2531.

Federal Region VIII: Chief, Planning Staff (8PEP) Public Buildings and Real Property, General Services Administration, Building 41, Denver Federal Center Lakewood, CO 80225–0001. (303) 776–7244.

Federal Region IX: Chief, Planning Staff (9PEP) Public Buildings and Real Property, General Services Administration, 525 Market St., San Francisco, CA 94105–2708. (415) 974–7623; (FTS) 454–7623.

Federal Region X: Chief, Planning Staff (10PEP) Public Buildings and Real Property, General Services Administration, GSA Center, 1501 G St., SW, Auburn, WA 98001–6599. (206) 931–7265; (FTS) 396–7265.

Federal National Capital Region: Chief, Planning Staff (WPJ) Public Buildings and Real Property, General Services Administration, 7th & D Sts., SW, Wash., D.C. 20407–0001. (202) 472–1479.

International Boundary and Water Commission, United States Section

Principal Engineer, Investigations and Planning Division, International Boundary and Water Commission, United States Section, IBWC Bldg., 4110 Rio Bravo, El Paso, TX 79902–1091. (915) 541–7304; (FTS) 572–7304.

Interstate Commerce Commission

Chief, Section of Energy and Environment, Office of Transportation Analysis, Interstate Commerce Commission, Room 4143, 12th St. and Constitution Ave., NW, Wash., D.C. 20423–0001. (202) 275–0800.

Marine Mammal Commission

General Counsel, Marine Mammal Commission, Room 307, 1625 Eye St., NW, Wash., D.C. 20006–3054. (202) 653–6237.

National Aeronautics and Space Administration

Environmental Compliance Officer, Facilities Engineering Division, National Aeronautics and Space Administration, Code NXG, Room 5031, 400 Maryland Ave., SW, Wash., D.C. 20546–0001. (202) 453–1958.

National Capital Planning Commission

Environmental/Energy Officer, Division of Planning Services, National Capital Planning Commission, Room 1024, 1325 G St., NW, Wash., D.C. 20576–0001. (202) 724–0179.

National Science Foundation

Chairman and Staff Associate, Committee on Environmental Matters; Office of Astronomical, Atmospheric, Earth and Ocean Sciences; National Science Foundation, Room 641, 1800 G St., NW, Wash., D.C. 20550–0001. (202) 357–7615.

Nuclear Regulatory Commission:

Chief, Environmental and Hydrologic Engineering Branch, Division of Engineering, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, Room P–312, Phillips Bldg., 7920 Norfolk Ave., Bethesda, MD 20814–2587. (301) 492–7972.

Pennsylvania Avenue Development Corporation

Director of Development, Pennsylvania Avenue Development Corporation, Suite 1248, 425 13th St., NW, Wash., D.C. 20004–1856. (202) 523–5477.

Small Business Administration

Chief, Loan Processing Branch, Office of Business Loans, Small Business Administration, Room 804–B, 1441 L St., NW, Wash., D.C. 20416–0001. (202) 653–6470.

Susquehanna River Basin Commission

Executive Director, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, PA. 17102–2391. (717) 238–0422.

Tennessee Valley Authority

Director, Environmental Quality Staff, Tennessee Valley Authority, 201 Summer Place Building, 309 Walnut St., Knoxville, TN 37902–1411. (615) 632–6578; (FTS) 856–6578.

United States Information Agency

Assistant General Counsel, United States Information Agency, 301 Fourth St., SW, Wash., D.C. 20547–0001. (202) 485–7976.

United States International Development Cooperation Agency:

For USAID matters, send to—Environmental Affairs Coordinator, Office of External Affairs, U.S. Agency for International Development, Department of State Bldg., 320 Twenty-First St., NW, Wash., D.C. 20523–0001. (202) 632–8268.

For OPIC matters, send to—International Economist/Environmental Officer, Office of Development, Overseas Private Investment Corporation, 1129 Twentieth St., NW, Wash., D.C. 20527–0001. (202) 653–2904.

United States Postal Service

Director, Office of Program Planning, Real Estate and Building Department, United States Postal Service, Room 4014, 475 L'Enfant Plaza West, SW, Wash., D.C. 20260–6420. (202) 245–4304.

Veterans Administration

Director, Office of Environmental Affairs, Veterans Administration, Code 088C, 810 Vermont Ave., NW, Wash., D.C. 20420–0001. (202) 389–3316.

[FR Doc. 84–32983 Filed 12–20–84; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. F&V AO-198-A-12]

Raisins Produced From Grapes Grown in California; Decision and Referendum Order on Proposed Further Amendment of the Marketing Agreement and Order; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule correction.

SUMMARY: This corrects an error in the December 11, 1984, issue of the **Federal Register**. The Order Amending the Order should have been published with the Decision and Referendum Order but was inadvertently omitted. The order amending the order contains the proposed order changes which producers must approve in a mail referendum.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5053.

Corrections are made in 49 FR 48194, December 11, 1984, by adding the following:

Order[1] Amending the Order, as Amended, Regulating the Handling of Raisins Produced From Grapes Grown in California

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto. Except the findings as to the base period for parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of raisins produced from grapes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of raisins produced from grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of raisins produced from grapes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of raisins produced from grapes growns in California shall be in conformity to and in compliance with the terms and conditions of the said order, as hereby amended, as follows:

PART 989—[AMENDED]

1. Section 989.11 is revised to read as follows:

§ 989.11 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of grapes which are sun-dried or dehydrated by artificial means until they become raisins: *Provided,* That a "producer" shall include any person whose production unit has qualified for diversion under a diversion program announced by the Committee.

2. Section 989.54(a) is amended by revising the fifth sentence to read as follows:

§ 989.54 Marketing policy.

(a) *Trade demand.* * * * The desirable carryout shall be increased from 45,000 to 60,000 tons for Natural (sun-dried) Seedless raisins at a rate of 5,000 tons per year for three crop years following the effective date of this amended subpart. * * *

3. Section 989.54(b) is amended by adding a proviso at the end of the first sentence to read as follows:

§ 989.54 Marketing policy.

* * * * *

(b) * * * *Provided,* That such production estimate shall include by varietal type the raisins handlers are expected to acquire from producers and the total tonnage of raisins diverted under a raisin diversion program.

* * * * *

4. A new § 989.56 is added to the order to read as follows:

§ 989.56 Raisin diversion program.

(a) *Announcement of program.* On or before November 30 of each crop year, the Committee shall hold a meeting to review production data, supply data, demand data, including anticipating demand to all potential market outlets, desirable carryout inventory and other matters relating to the quantity of raisins of all varietal types. When the Committee determines that raisins exist in the reserve pool in excess of projected market needs for any varietal type, it may announce the amount of such tonnage eligible for diversion during the subsequent crop year. At the same time, the Committee shall determine and announce to producers, handlers, and the cooperative bargaining association(s) the allowable harvest cost to be applicable to such diversion tonnage: *Provided,* That during the 1984-85 crop year, these actions shall be taken as soon as practicable after the effective date of this amended subpart.

(b) *Voluntary diversion.* No producer shall be required to participate in any raisin diversion program:

(c) *Issurance of diversion certificates.* After the Committee announces a raisin diversion program, any producer may divert grapes of his/her own production and receive from the Committee a diversion certificate in accordance with the applicable rules and regulations. Such certificates only may be submitted by producers to handlers in accordance

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

with applicable rules and regulations. Diversion certificates issued by the Committee shall apply to a specific production unit and shall be equal to the creditable fruit weight of such raisin produced on such unit during the prior crop year of the last prior crop year eligible for such diversion.

(d) *Redemption of diversion certificates.* Handlers may redeem diversion certificates for reserve pool raisins. To redeem a certificate, a handler must present the diversion certificate to the Committee and pay the Committee an amount equal to the harvest cost it has established for the entire tonnage represented on the diversion certificate. Upon receipt of the diversion certificate, the Committee shall note on the certificate that it is cancelled.

(e) *Implementation of the program.* The Committee shall establish, with the approval of the Secretary, such rules and regulations as may be necessary for the implementation and operation of a raisin diversion program.

(Secs. 1–19, 48 Stat. 31, as amended 7 U.S.C. 601–674)

Dated: December 20, 1984.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 84–33437 Filed 12–20–84; 11:41 am]

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Last list November 16, 1984.

The list will be resumed when bills are enacted into public law during the first session of the 99th Congress which convenes on January 3, 1985.

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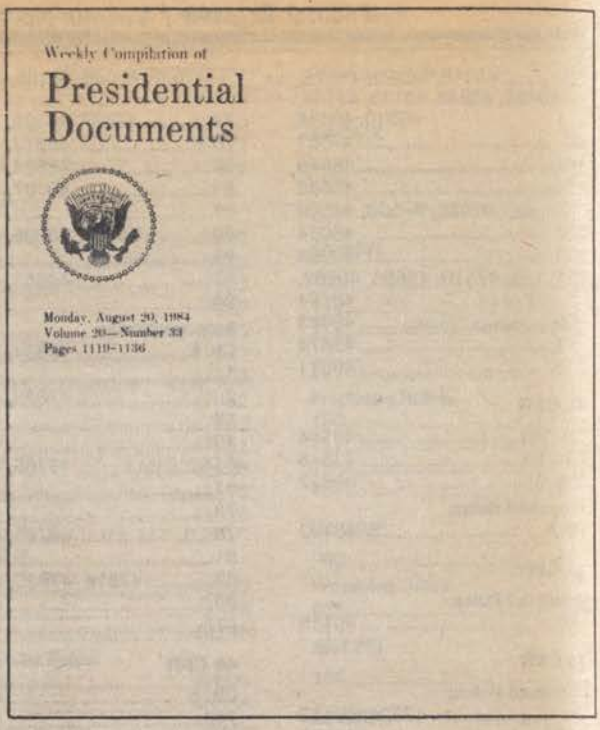

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federal register

Friday
December 21, 1984

Part III

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL 2584-61]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to amend its regulations under the Resource Conservation and Recovery Act (RCRA) to add 109 chemicals to the lists of commercial chemical products that are hazardous wastes when discarded. Twenty-eight of these chemicals would be classified as acutely hazardous wastes and the remaining 81 would be classified as toxic hazardous wastes. In addition, 120 compounds would be classified as hazardous constituents (Appendix VIII) and, thus, their presence in other wastes could serve in the future as a justification for listing hazardous waste streams. This action is taken in response to a petition for rulemaking filed by the State of Michigan. The effect of this amendment would be to increase the scope of the hazardous waste regulations by adding certain commercial chemical products which, if discarded, would be subject to the RCRA hazardous waste regulations.

DATES: EPA will accept public comments on this proposed rule until February 19, 1985. Any person may request a hearing on this amendment by filing a request with Eileen B. Claussen, whose address appears below, by January 22, 1985. The request must contain the information set out in 40 CFR 260.20(d).

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Enviromental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460. Comments should identify the regulatory docket number "Michigan Petition". Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C., 20460.

The public docket for this amendment is located in Room S-212A, U.S. Evironmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact David Friedman, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), EPA has promulgated in 40 CFR 261.33 a list of commercial chemical products or manufacturing chemical intermediates that are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.[1] Section 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers that have held those chemicals listed in § 261.33(e), if they are discarded or intended to be discarded, unless the containers have been triple-rinsed with a solvent capable of removing the chemical, or have been decontaminated in an equivalent manner.

In listing wastes in § 261.33, the Agency intends to encompass those hazardous chemical products which, for various reasons, are sometimes thrown away in pure or diluted form. The regulation is intended to designate chemicals themselves as hazardous wastes, if discarded. The reasons for discarding these materials might be that the materials do not meet required specifications, that inventories have been changed, or that the product line has been changed.

A chemical substance is listed in § 261.33(e), and is subject to a small quantity generator exclusion limit of 1 kilogram per month, if it meets the criteria of § 261.11(a) (2); that is, it is acutely hazardous because it has been found to be fatal to humans in low doses or in the absence of data on human toxicity, it has been shown in animal studies to have an oral (rat) LD50 of less than 50 milligrams per kilogram, a dermal rabbit LD50 of less than 200 milligrams per kilogram, an inhalation (rat) LC50 of less than 2 mg/1, or is otherwise capable of causing or significantly contributing to serious illness.

Chemical substances are listed in § 261.33 (f), and are subject to the small quantity generator limit of 1000 kilograms per month,[2] if they satisfy § 261.11(a) (1), or § 261.11(a) (3).

II. Reason and Basis for Today's Amendment

A. Michigan's petition

The State of Michigan, pursuant to the provisions in § 260.20 has petitioned EPA to add a total of 174 compounds to § 261.33 (e) and (f). Michigan believes that there is sufficient justification for listing these materials since mismanagement of these materials, after they are discarded, could pose a substantial threat to human health and the environment. The State has provided 1 volumes of background material to support this claim. This material may be viewed at the RCRA 3001 Docket (see **ADDRESSES** section) and is summarized (where relevant) in this preamble.

1. Additions to § 261.33(e).

The petitioner asked that the following 57 compounds be added to the list of acutely hazardous wastes.

Actinomycin D
Aflatoxin B_1
Aflatoxin B_1 tetrahydrodioxy
Aflatoxin B_2
Aflatoxin G_1
Aflatoxin G_2
Aflatoxin G_{2a}
Aflatoxin M_1
Aflatoxin M_2
Aflatoxin P_1
Aflatoxin Q_1
Aflatoxin R_0
Aflatoxin, not otherwise specified (N.O.S.)
Azinphos ethyl
Azinphos methyl
Bendiocarb

[1] The Agency is contemplating a new version of this provision which would include formulations with more than one active ingredient and establish a means to determine a level below which formulations of acutely hazardous wastes could be treated as hazardous wastes.

[2] The Hazardous and Solid Waste Amendments of 1984 require the promulgation of standards for hazardous waste generated in a quantity greater than 100 kilograms but less than 1000 kilograms a month. These standards may differ from those applicable to large quantity generators. Some requirements on small quantity generators are effective immediately. See section 221 of the Amendments, 42 U.S.C. 6921(d).

Carbofuran
Carbophenothion
Chlorinated dibenzofurans, N.O.S.
2,3,7,8-Tetrachlorodibenzofuran
Chlorinated dioxins, N.O.S.
2,7-Dichlorodibenzo-p-dioxin
2,3,7,8,-Tetrachlorodibenzo-p-dioxin
1,2,3,7,8-Pentachlorodibenzo-p-dioxin
Hexachlorodibenzo-p-dioxin, N.O.S.
1,2,3,4,7,8-Hexachlorodibenzo-p-dioxin
1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin
1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin
Chlorine
2-Chloroethanol
Chlorfenvinphos
Coumaphos
Cycloheximide
Demeton
Dichlorvos
Dicrotophos
Dioxathion
EPN
Ethion
Fensulfothion
Fenthion
Ketene
Lactonitrile
Leptophos
Mevinphos
Mexacarbate
Monocrotophos
Mustard gas
Nickel
Nitrogen mustard
Oxydemeton-methyl
Phosacetim
Phosphamidon
Propyleneimine
Sulfotepp
Terbufos
Trichlorfon

2. Additions to § 261.33(f).

The State of Michigan states in its petition that the following 118 compounds should be added to the list of toxic hazardous wastes. The petition claims that all of these compounds meet the criteria for listing hazardous wastes contained in 40 CFR 261.11(a)(3).

Allyl chloride
2-Aminoanthraquinone
Aminoazobenzene
o-Aminoazotoluene
4-Aminobiphenyl
3-Amino-9-ethyl carbazole
1-Amino-2-methyl anthraquinone
Anilazine
Aniline hydrochloride
o-Anisidine
o-Anisidine hydrochloride
Antimony
Antimony (III) chloride
Antimony (V) chloride
Antimony trioxide
Antimycin A
Aramite
Asbestos
Barban
Benomyl
Benzidine
Benzidine sulfate
p-Benzoquinone
Beryllium compounds
Bromoxynil
Captafol
Captan
Carbaryl
Chloramines
Chlorpyrifos
3-(Chloromethyl) pyridine hydrochloride
1-(4-Chlorophenyl)-3,3-dimethyltriazene
4-Chloro-m-phenylenediamine
4-Chloro-o-phenylenediamine
Chloroprene
5-Chloro-o-toluidine
Citrus red no. 2
Clonitralid
Cobalt
Cobalt chloride
p-Cresidine
Crotoxyphos
Cupferron
Cycasin
2,4-Diaminoanisole sulfate
2,4-Diaminotoluene
Diazinon
Dichlone
3,3'-Dichlorobenzidine salts
1,2-Dichloroethane
Diethyl sulfate
Dinocap
2,3,-Epoxy-1-propanal
Fluchloralin
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl) thiazole
Heptachlor epoxide
Hexamethyl phosphoramide
Hydrazobenzene
Hydroquinone
N-(2-Hydroxyethyl) ethyleneimine
Hypochlorite and compounds
Calcium hypochlorite
Sodium hypochlorite
Isonicotinic acid hydrazide
Lithium
Malachite green
Malathion
Mestranol
Methoxychlor
4,4'-Methylenebis(N,N'-dimethylaniline)
4,4'-Methylenebis(2-methylaniline)
1,2-(Methylenedioxy)-4-propenyl benzene
Methyl mercaptan
1-Methylnaphthalene
2-Methyl-1-nitroanthraquinone
Mirex
Monocrotaline
Naled
1,5-Napthalenediamine
Niridazole
Nithiazide
5-Nitroacenaphthene
4-Nitrobiphenyl
5-Nitro-o-anisidine
Nitrofen
N-(4-(5-Nitro-2-furanyl-2-thiazolyl)acetamide
N-Nitroso-n-butyl-N-(4-hydroxybutyl)amine
p-Nitrosodiphenylamine
N-Nitrosomorpholine
N-Nitrososarcosine
4,4'-Oxydianiline
Paraquat
Peroxyacetic acid
Phenazopyridine hydrochloride
Phenesterin
Phenobarbital
Phenytoin
Phenytoin sodium
Phosmet
Piperonyl sulfoxide
Polybrominated biphenyls
Polychlorinated biphenyls
beta-Propiolactone
5-Propyl-1,3-benzodioxole or dihydrosafrole
Propylthiouracil
Rotenone
Semicarbazide
Silvex
Styrene
Sulfallate
Tetrachlorvinphos
4,4'-Thiodianiline
o-Toluidine
Tricresyl phosphate
Trifluralin
2,4,5-Trimethylaniline
Trimethylphosphate
Ziram

B. Agency Response

A number of compounds which the State of Michigan petitioned EPA to include in 40 CFR 261.33 (e) and (f) are not commercial chemical products; rather, they are chemicals that may be constituents in other wastes. As stated previously, only commercial chemical products or manufacturing chemical intermediates are included in §§ 261.33 (e) and (f). There is sufficient evidence, however, to show that if exposure to some of these compounds occurs, harm to human health or the environment is likely. Thus, they will be included (if not already included) in Appendix VIII,[3] of Part 261, the list of hazardous constituents.

The remaining compounds addressed in the State's petition are commercial chemical products, and so are potentially suitable for inclusion in § 261.33. We have evaluated both the data submitted in the State's petition and other data available to the Agency. This additional data includes data submitted to the Agency under pesticide registration and reregistration, and the TSCA existing chemical review programs, information published by the National Institute for Occupational Safety and Health in the Registry of Toxic Effects of Chemical Substances, as well as studies and evaluations made by the International Agency for

[3] Chemicals are listed in Appendix VIII if they have been shown in reputable scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms and include such substances as those identified by the Agency's Carcinogen Assessment Group as being carcinogenic. See 40 CFR 261.11(a)(3). The significance of including a compound in Appendix VIII is threefold. First, the compound then can be cited as a basis for listing toxic wastes (see 40 CFR 261.11(a)(3)). Second, permittees can be required to monitor ground water for many of these constituents under the Part 264 Subpart F detection, compliance, and corrective action monitoring programs of 40 CFR 264.91(a) (2) and (3). In addition, the Principal Organic Hazardous Constituents specified in incineration permits are drawn from Appendix VIII (see 40 CFR 264.342).

Research on Cancer and the Agency's Office of Research and Development. Where the Agency's evaluated data differed from that cited in the petition, the Agency's data and evaluations were used in determining whether or not to propose listing the chemical.

For the most part, EPA has relied on information published in NIOSH's "Registry of Toxic Effects of Chemical Substances" for the data used in making its evaluations. NIOSH, in compiling the "Registry" presents data on the lowest reported doses that produce effects by several routes of entry in various species. In most cases, no attempt is made by NIOSH to resolve differences about published data from various sources. NIOSH relies on peer review that is usually required prior to publication in scientific literature to assure the validity of data.

EPA is hereby soliciting comment on the Agency's use of the NIOSH data base for the purpose of selecting chemicals for listing under Part 261. In particular, the Agency seeks comment on the scientific validity of using a data base which reflects the most conservative dose-response relationships available in the health effects literature to determine whether a chemical should be listed as hazardous under RCRA. The Agency will review and consider any such comment submitted prior to final promulgation.

As a result of these evaluations, the Agency decided to propose listing some of the chemicals and to reject listing others. For some of the compounds included in the Michigan petition, sufficient evidence to show whether these wastes meet the criteria for listing was not available.

The reasons a specific compound is or is not being added to 261.33 (e), (f) or Appendix VIII are summarized in the following sections.

1. Additions to § 261.33(e).

The State of Michigan asked that 57 compounds be added to the list of acutely hazardous wastes. The petitioner stated that all the compounds meet one or more of the criteria for acutely hazardous wastes published in 40 CFR 261.11(a)(2), *i.e.*, the compound has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have in an oral (rat) LD_{50} of less than 50 milligrams per kilogram, an inhalation (rat) LC_{50} of less than 2 milligrams per liter, or a dermal (rabbit) LD_{50} of less than 200 milligrams per kilogram or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness.

The Agency agrees that 28 of the 57 proposed additions to § 261.33(e) meet these criteria. We are proposing to list these in § 261.33(e). (They will be listed by both the common name and the 8th Collective Index [4] name as done in previous listings.) Those not considered appropriate additions are, for the most part, compounds that the Agency could not verify as being commercial chemical products.

a. Those additions proposed by the State of Michigan which the Agency considers to be valid are described below, giving the newly assigned Hazardous Waste Number, the Chemical Abstracts Service (CAS) Number, and the reason (in the form of summarized toxicity data) the compound is being added to § 261.33(e).

EPA hazardous waste No.	CAS No.	Compound name	Reason added to § 261.33(e) (toxicity data [1])
P124	50-76-0	Actinomycin D	Oral rat LD_{50}=7.2 mg/kg.
P150	2642-71-9	Azinphos ethyl	Oral rat LD_{50}=9 mg/kg.
P151	86-50-0	Azinphos methyl	Oral rat LD_{50}=13 mg/kg. Inhalation rat LC_{50}=0.069 mg/1/h. Mutagen. Oncogen [2].
P127	1563-66-2	Carbofuran	Oral rat LD_{50}=5.3 mg/kg. Inhalation rat LC_{50}=0.085 mg/1.
P148	786-19-6	Carbophenothion	Oral rat LD_{50}=10 mg/kg.
P129	7782-50-5	Chlorine	Inhalation human LC_{Lo}=1.38 mg/1/h. Inhalation rat LC_{50}=0.93 mg/1/h.
P133	107-07-3	2-Chloroethanol	Dermal rabbit LD_{50}=56 mg/kg.
P143	470-90-6	Chlorfenvinphos	Oral rat LD_{50}=20 mg/kg. Mutagen [2].
P130	56-72-4	Coumaphos	Oral rat LD_{50}=17—87 mg/kg [2].
P134	66-81-9	Cyclohexamide	Oral rat LD_{50}=2 mg/kg. Mutagen [2].
P155	8065-48-3	Demeton	Oral human LD_{Lo}=0.24 mg/kg. Oral rat LD_{50}=1.7 mg/kg. Dermal rabbit LD_{50}=24 mg/kg.
P144	62-73-7	Dichlorvos	Dermal rabbit LD_{50}=107 mg/kg. Inhalation rat LC_{50}=0.06 mg/1/h.
P146	141-66-2	Dicrotophos	Oral rat LD_{50}=22 mg/kg [2]. Dermal rabbit LD_{50}=168 mg/kg. Inhalation rat LC_{50}=0.65 mg/1/h [2].
P153	78-34-2	Dioxathion	Oral rat LD_{Lo}=mg/kg. Inhalation rat LC_{50}=1.398 mg/1/h. Dermal rabbit LD_{50}=85 mg/kg.
P141	2104-64-5	EPN	Oral rat LD_{50}=8 mg/kg. Dermal rabbit LD_{50}=30 mg/kg. Inhalation rat LC_{50}=0.08—0.24 mg/1/h [2]. Neurotoxic [2].
P154	563-12-2	Ethion	Oral rat LD_{50}=13 mg/kg.
P156	115-90-2	Fensulfothion	Oral rat LD_{50}=2 mg/kg.
P140	21609-90-5	Leptophos	Oral rat LD_{50}=42 mg/kg. Neurotoxic [2].
P131	7786-34-7	Mevinphos	Oral rat LD_{50}=3.7 mg/kg. Inhalation rat LC_{50}=0.14 mg/1/h. Dermal rabbit LD_{50}=4.7 mg/kg.
P128	315-18-4	Mexacarbate	Oral rat LD_{50}=14 mg/kg.
P147	919-44-8	Monocrotophos	Oral rat LD_{50}=21 mg/kg. Inhalation rat LC_{50}=0.162 mg/1/h. Mutagen [2].
P158	505-60-2	Mustard gas	Inhalation human LC_{Lo}=0.027 mg/1/h. Inhalation rat LC_{50}=0.0014 mg/1/h. Dermal human LD_{Lo}=64 mg/kg. Dermal rabbit LD_{50}=100 mg/kg.
P132	51-75-2	Nitrogen mustard	Inhalation rat LC_{Lo}=0.073 mg/1/h.
P157	301-12-2	Oxydemeton-methyl	Oral rat LD_{50}=30 mg/kg.
P142	4104-14-7	Phosacetim	Oral rat LD_{50}=3.7 mg/kg.
P145	13171-21-6	Phosphamidon	Oral rat LD_{50}=17 mg/kg.
P157	301-12-2	Oxydemeton-methyl	Oral rat LD_{50}=30 mg/kg.
P142	4104-14-7	Phosacetim	Oral rat LD_{50}=3.7 mg/kg.
P145	13171-21-6	Phosphamidon	Oral rat LD_{50}=17 mg/kg.
P149	13071-79-9	Terbufos	Oral rat LD_{50}=1.6 mg/kg. Dermal rabbit LD_{50}=1.1 mg/kg.
P139	52-68-6	Trichlorfon	Inhalation rat LC_{50}=0.0013 mg/1. Mutagen [2].

[1] All toxicity data, unless otherwise noted, are taken from the National Institute for Occupational Safety and Health *Registry of Toxic Effects of Chemical Substances*, 1980 edition.
[2] EPA Office of Pesticide Programs data. See docket for details.

b. Of those compounds which we are not proposing to list, two are already listed in § 261.33(e) (under another name); five do not meet the criteria for listing a commercial chemical in § 261.33(e), but do meet the criteria for listing in § 261.33(f), so we are proposing to add them there; nineteen are not commercial chemical products, but are being added to Appendix VIII, if not

[4] The Collective Indices are published periodically by the American Chemical Society in *Chemical Abstracts*.

already included there; and three are not added because of insufficient data. Those not considered appropriate additions are described below. More detailed explanations are contained in the revised Background Document, available for reading at the RCRA 3001 Docket at Headquarters and at EPA Regional Office libraries.

Compound name	Reason for not adding to § 261.33(e)	Disposition
(Aflatoxins are currently listed in Appendix VIII as "Aflatoxins".)		
Aflatoxin B_1	Not commercial chemical product.	No action.
Aflatoxin B_1 tetrahydro-dioxy.	do	Do.
Aflatoxin B_2	do	Do.
Aflatoxin G_1	do	Do.
Aflatoxin G_{2a}	do	Do.
Aflatoxin G_2a	do	Do.
Aflatoxin M_1	do	Do.
Aflatoxin M_2	do	Do.
Aflatoxin P_1	do	Do.
Aflatoxin Q_1	do	Do.
Aflatoxin R_0	do	Do.
Aflatoxins, N.O.S.	do	Do.
Bendiocarb	Oral rat LD_{50} = 179 mg/kg.	Add to § 261.33(f). Add to App. VIII.
2,7-Dichlorodi-benzo-p-dioxin.	Insufficient data	No action.
2,3,7,8-Tetrachlorodi-benzo-p-dioxin.	Not commercial chemical product.	No action—currently on App. VIII.
1,2,3,7,8-Pentachlorodi-benzo-p-dioxin.	do	No action.[1]
Hexachlorodi-benzo-p-dioxin.	do	Do.
1,2,3,4,7,8-Hexachlorodi-benzo-p-dioxin.	do	Do.
1,2,3,6,7,8-Hexachlorodi-benzo-p-dioxin.	do	Do.
1,2,3,7,8,9-Hexachlorodi-benzo-p-dioxin.	do	Do.
Chlorinated dibenzofurans, N.O.S.	Insufficient data	No action.
2,3,7,8-Tetrachlorodi-benzofuran.	Not commercial chemical product.	No action[1].
Chlorinated dioxins, N.O.S.	Insufficient data	No action.
Fenthion	Oral rat LD_{50} = 215 mg/kg Oncogenic.	Add § 261.33(f).
	Animal teratogen	Add to App. VIII.
Ketene	Oral rat LD_{50} = 1300 mg/kg.	Add to § 261.33(f). Add to App. VIII.
Lactonitrile	Oral rat LD_{50} = 87 mg/kg.	Add to § 261.33(f). Add to App. VIII.
Nickel (when in the form of particles 100 microns or less).	Animal carcinogen	Add to § 261.33(f) (Currently on App. VIII).
Propyleneimine	Already regulated	
Sulfotepp	Already regulated as P109.	

[1] These compounds were proposed to be added to Appendix VIII in another action proposing to list wastes containing tetra-, penta-, and hexa- chlorodibenzo-p-dioxins and -dibenzofurans (48 FR 14514, April 4, 1983).

2. Additions to § 261.33(f).

The State of Michigan requests in its petition that 117 compounds be added to the list of hazardous wastes in § 261.33(f). The petition indicates that all of these compounds meet the criteria for hazardous wastes contained in § 261.11(a)(3). For the purposes of identifying compounds to be included on this list, the Agency considers principally the nature of the toxicity presented by the compound (see § 261.11(a)(3)(i) and its concentration in the waste (§ 261.11(a)(3)(ii)). Concentration, of course, will ordinarily be very high because the commercial chemical will consist nearly entirely of the toxic compound, or contain the compound as the sole active ingredient.

As previously discussed, after evaluating the information in the petition and in Agency files, the Agency agrees that 81 of the 117 requested additions to § 261.33(f) are valid, and these will be listed by both the common name and the 8th Collective Index name, as in previous listings.

a. The additions requested by the State of Michigan and which the Agency considers to be valid are described below, giving the newly assigned Hazardous Waste Number, the CAS number, and the reason (toxicity data) the compound is being proposed to be added to § 261.33(f).

EPA hazardous waste No.	CAS NO.	Compound name	Reason added to § 261.33(f) (toxicity data)
U317	107-05-1	Allyl chloride	Inhalation human LC_{Lo} = 10.3 mg/1. Dermal rabbit LD_{50} = 2200 mg/kg. Mutagen.
U264	117-79-3	2-Aminoanthraquinone	Animal carcinogen.
U257	60-09-3	Aminoazobenzene	Animal carcinogen. Mutagen.
U331	97-56-3	o-Aminoazotoluene	Animal carcinogen.
U274	92-67-1	4-Aminobiphenyl	Oral rat LD_{50} = 500 mg/kg. Human carcinogen. Mutagen.
U253	132-32-1	3-Amino-9-ethyl carbazole	Oral rat LD_{50} = 144 mg/kg.
U265	82-28-0	1-Amino-2-methyl anthraquinone	Animal carcinogen.
U333	101-05-3	Anilazine	Oral rabbit LD_{50} = 460 mg/kg.[1].
U269	142-04-1	Aniline hydrochloride	Oral rat LD_{50} = 1072 mg/kg. Animal carcinogen. Mutagen.
U260	90-04-0	o-Anisidine	Oral rat LD_{50} = 2020 mg/kg[2].
U261	134-29-2	o-Anisidine hydrochloride	Animal carcinogen.
U266	10025-91-9	Antimony (III) chloride	Oral rat LD_{50} = 525 mg/kg. mutagen.
U267	7647-18-9	Antimony (V) chloride	Oral rat LD_{50} = 1115 mg/kg. mutagen.
U278	1309-64-4	Antimony trioxide	Oncogenic in female rats.
U326	140-57-8	Aramite	Oral human LD_{Lo} = 429 mg/kg. Oral rat LD_{50} = 3900 mg/kg. Animal carcinogen.
U280	101-27-9	Barban	Oral rat LD_{50} = 600 mg/kg. Mutagen.
U271	17804-35-2	Benomyl	Mutagen. Animal teratogen. Oncogenic[3].
U272	1689-84-5	Bromoxynil	Oral rat LD_{50} = 190 mg/kg.
U285	2425-06-1	Captafol	Oral rat LD_{50} = 2500 mg/kg. Oncogen. Teratogen[3].
U286	133-06-2	Captan	Oral human LD_{Lo} = 1071 mg/kg Mutagen. Oncogen[3].
U279	63-25-2	Carbaryl	Oral rat LD_{50} = 250 mg/kg. Dermal rabbit LD_{50} = 2000 mg/kg.
U321	1420-04-8	Clonitralid	Oral rat LD_{50} = 500 mg/kg.
U319	6959-48-4	3-(Chloromethyl) pyridine hydrochloride	Oral rat LD_{50} = 316 mg/kg.

EPA hazardous waste No.	CAS NO.	Compound name	Reason added to § 261.33(f) (toxicity data)
			Animal carcinogen.
U305	5131-60-2	4-Chloro-m-phenylenediamine	Animal carcinogen.
U306	95-83-0	4-Chloro-m-phenylenediamine	Animal carcinogen.
U276	126-99-8	Chloroprene	Oral rat LD_{50}=900 mg/kg.
			Mutagen.
U329	95-79-4	5-Chloro-o-toluidine	Oral rat LD_{50}=464 mg/kg.
			Animal carcinogen.
U314	2921-88-2	Chlorpyrifos	Oral rat LD_{50}=97 mg/kg.
			Dermal rabbit LD_{50}=2000 mg/kg.
			Mutagen[3].
U281	7440-48-4	Cobalt, when in the form of particles 100 microns or less	Oral rat LD_{50}=1500 mg/kg.
			Oral rabbit LD_{50}=20 mg/kg.
U282	7646-79-9	Cobalt chloride	Oral rat LD_{50}=80 mg/kg.
U262	120-71-8	p-Cresidine	Oral rat LD_{50}=1450 mg/kg.
			Animal carcinogen.
U283	7700-17-6	Crotoxyphos	Oral rat LD_{50}=74 mg/kg.
			Dermal rabbit LD_{50}=385 mg/kg.
			Mutagen[3].
U290	135-20-6	Cupferron	Animal carcinogen.
U307	39156-41-7	2,4-Diaminoanisole sulfate	Animal carcinogen.
U327	95-80-7	2,4-Diaminotoluene	Oral rat LD_{50}=260 mg/kg.
			Animal carcinogen.
			Mutagen.
U313	333-41-5	Diazinon	Oral rat LD_{50}=76 mg/kg.
			Dermal rabbit LD_{50}=400 mg/kg.
			Mutagen[3].
U299	117-80-6	Dichione	Oral rat LD_{50}=1630 mg/kg[3].
U325	64-67-5	Diethyl sulfate	Dermal rabbit LD_{50}=600 mg/kg.
			Animal carcinogen.
			Mutagen.
U284	39300-45-3	Dinocap	Oral rat LD_{50}=980 mg/kg.
			Dermal rabbit LD_{50}=9400 mg/kg.
U330	33245-39-5	Fluchloralin	Oral rat LD_{50}=750-1550 mg/kg.
U312	680-31-9	Hexamethyl phosphoramide	Oral rat LD_{50}=2525 mg/kg.
			Dermal rabbit LD_{50}=2600 mg/kg.
			Animal carcinogen.
			Mutagen.
U289	1072-52-2	N-(2-Hydroxyethyl) ethyleneimine	Oral rat LD_{50}=74 mg/kg.
			Dermal rabbit LD_{50}=280 mg/kg.
			Animal carcinogen.
U291	7778-54-3	Calcium hypochlorite	Corrosive.
			Reactive.
U292	7681-52-9	Sodium hypochlorite	Corrosive.
			Reactive.
U295	7439-93-2	Lithium and soluble salts	Reactive (metal).
			Teratogenic.
U254	569-64-2	Malachite green	Mutagen.
			Oral mouse LD_{50}=80 mg/kg [1].
			Oral rabbit LD_{Lo}=75 mg/kg [1].
U324	121-75-5	Malathion	Oral man LD_{Lo}=857 mg/kg.
			Oral woman LD_{Lo}=246 mg/kg.
			Oral rat LD_{50}=885 mg/kg.
			Dermal rabbit LD_{50}=4100 mg/kg.
U301	72-33-3	Mestranol	Animal carcinogen.
U255	101-61-1	4,4'-Methylenebis (N,N'-dimethyl-aniline)	Animal carcinogen.
			Mutagen.
U256	838-88-0	4,4'-Methylenebis (2-methylaniline)	Oral rat LD_{50}=1490 mg/kg.
			Animal carcinogen.
U297	2385-85-5	Mirex	Oral rat LD_{50}=235 mg/kg.
			Dermal rabbit LD_{50}=800 mg/kg.
			Animal carcinogen.
U309	300-76-5	Naled	Oral rat LD_{50}=250 mg/kg.
			Dermal rabbit LD_{50}=1100 mg/kg.
U296	2243-62-1	1,5-Naphthalene-diamine	Animal carcinogen.
U293	61-57-4	Niridazole	Oral rat LD_{50}=900 mg/kg.
			Animal carcinogen.
			Mutagen.
U335	139-94-6	Nithiazide	Animal carcinogen.
U250	602-87-9	5-Nitroacenaphthene	Animal carcinogen.
			Mutagen.
U275	92-93-3	4-Nitrobiphenyl	Oral rat LD_{50}=2230 mg/kg.
			Animal carcinogen.
			Mutagen.
U263	99-59-2	5-Nitor-o-anisidine	Oral rat LD_{50}=704 mg/kg.
			Animal carcinogen.
U288	1836-75-5	Nitrofen	Oral rat LD_{50}=740 mg/kg.
			Animal carcinogen.
			Oncogen.
			Mutagen[3].
U251	531-82-8	N-(4-(5-Nitro-2-furanyl-2-thiazolyl) acetamide	Animal carcinogen.
			Mutagen.
U287	156-10-5	p-Nitrosodiphenylamine	Oral rat LD_{50}=2140 mg/kg.
			Animal carcinogen.
U303	101-80-4	4,4'-Oxydianiline	Oral rat LD_{50}=725 mg/kg.
			Mutagen.
U304	79-21-0	Peroxyacetic acid	Oral rat LD_{50}=1540 mg/kg.
			Dermal rabbit LD_{50}=1410 mg/kg.
			Corrosivity.
U320	136-40-3	Phenazopyridine hydrochloride	Oral rat LD_{50}=403 mg/kg.
			Animal carcinogen.
U252	3546-10-9	Phenesterin	Animal carcinogen.
U268	50-06-6	Phenobarbital	Oral rat LD_{50}=162 mg/kg.
			Mutagen.
			Animal teratogen.

EPA hazardous waste No.	CAS NO.	Compound name	Reason added to § 261.33(f) (toxicity data)
U270	120-62-7	Piperonyl sulfoxide	Oral rat LD_{50} = 2000 mg/kg. Dermal rabbit LD_{50} = 9000 mg/kg. Animal carcinogen.
U316	59536-65-1	Polybrominated biphenyls	Animal teratogen.
U302	57-57-8	beta-Propiolactone	Animal carcinogen. Mutagen.
U334	51-52-5	Propylthiouracil	Animal carcinogen. Human teratogen.
U273	83-79-4	Rotenone	Oral rat LD_{50} = 132 mg/kg.
U322	57-56-7	Semicarbazide	Mutagen.
U323	100-42-5	Styrene	Inhalation human LC^{Lo} = 93 mg/1/h. Oral rat LD_{50} = 5000 mg/kg. Mutagen.
U277	95-06-7	Sulfallate	Oral rat LD_{50} = 850 mg/kg. Dermal rabbit LD_{50} = 2200 mg/kg. Animal carcinogen. Mutagen.
U308	961-11-5	Tetrachlorvinphos	Oral rat LD_{50} = 1100 mg/kg. Animal carcinogen.
U258	139-65-1	4,4'-Thiodianiline	Oral rat LD_{50} = 1100 mg/kg. Animal carcinogen. Mutagen.
U328	95-53-4	o-Toluidine	Oral rat LD_{50} = 900 mg/kg. Dermal rabbit LD_{50} = 3250 mg/kg. Mutagen.
U311	78-30-8	Tricresyl phosphate	Oral human LD_{Lo} = 1000 mg/kg. Oral rat LD_{50} = 3000 mg/kg. Neurotoxic[2].
U332	1582-09-8	Trifluralin	Animal carcinogen. Mutagen[3].
U259	137-17-7	2,4,5-Trimethylaniline	Oral rat LD_{50} = 1250 mg/kg. Animal carcinogen. Mutagen.
U310	512-56-1	Trimethylphosphate	Oral rat LD_{50} = 840 mg/kg. Animal carcinogen. Mutagen.
U336	137-30-4	Ziram	Oral rat LD_{50} = 1400 mg/kg.

[1] These data have been cited to indicate the toxicity of a compound when other toxicity data has not been available.
[2] These data were taken from *Chemical Abstracts*, v. 13, p. 101, abstract no. 84349g, 1977.
[3] EPA Office of Pesticide Programs data. See docket for details.

b. Of those compounds which we are not proposing to list in § 261.33(f), twelve are already listed in § 261.33 (eleven in § 261.33(f) and one in § 261.33(e)); seven are being added to § 261.33(e); one is already regulated by the Toxic Substances Control Act; one is currently under Agency study; one is not sufficiently toxic; one is too general; one is the subject of an Agency study; and two are not being added because the State presented insufficient data, which we have been unable to supplement; and ten are not commercial chemical products. Those not considered valid candidates below. More detailed explanations are contained in the revised Background Document, available for reading as noted earlier.

Compound name	Reason for not adding to § 261.33(f)	Disposition
Antimony (when in the form of particles 100 microns or less.	LD_{Lo} man = 15 mg/kg	Add to § 261.33(e)—currently on App VIII.
Antimycin A	Insufficient data	No Action.
Asbestos	Under Agency study	Add to App. VIII[1].
Benzidine	Already regulated as U021.	
Benzidine sulfate	Not commercial chemical product.	Add to App. VIII. Animal carcinogen.
p-Benzoquinone	Already regulated as U197.	
Beryllium compounds	Already regulated as P015.	
Chloramines	Too general	No action.
1-(4-Chlorophenyl)-3,3-dimethyltriazene	Not commercial chemical product.	Add to App. VIII. Oral rat LD_{50} = 362 mg/kg. Animal carcinogen.
Citrus red no. 2	Not commercial chemical product.	No action—currently on App. VIII.
Cycasin	Not commercial chemical product.	No action—currently on App. VIII.
3,3-Dichloro-benzidine salts	Already regulated as U073.	
1,2-Dichloroethane	Already regulated as U077.	
2,3-Epoxy-1-propanal	Already regulated as U126	
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole.	Not commercial chemical product.	Add to App. VIII. Animal carcinogen. Mutagen.
Heptachlor epoxide	Not commercial chemical product.	Add to App. VIII. Oral rat LD_{50} = 62 mg/kg. Animal carcinogen.
Hydrazobenzene	Already regulated as U109.	
Hydroquinone	Oral human LD_{Lo} = 29 mg/kg	Add to § 261.33(e). Add to App. VIII.
Hypochlorite and compounds	Too general	No action.
Isonicotinic acid hydrazide	Oral human LD_{Lo} = 100 mg/kg	Add to § 261.33(e). Add to App. VIII.

Compound name	Reason for not adding to § 261.33(f)	Disposition
Methoxychlor	Already regulated as U24.	
1,2-(Methylenedioxy)-4-propenyl benzene	Already regulated as U141.	
Methyl mercaptan	Already regulated as U153.	
1-Methylnaphthalene	Not sufficiently toxic	No action.
2-Methyl-1-nitro-anthraquinone	Not commercial chemical product.	Add to App. VIII. Animal Carcinogen. Mutagen.
Monocrotaline	Not commercial chemical product.	Add to App. VIII. Oral rat LD_{50}=66 mg/kg. Animal carcinogen. Mutagen.
N-Nitroso-n-butyl-N-(4-hydroxy-butyl)amine	Not commercial chemcial product.	Add to App. VIII. Oral rat LD_{50}=1800 mg/kg. Animal carcinogen. Mutagen.
N-Nitrosomorpholine	Not commercial chemical product.	No action—currently on App. VIII.
N-Nitrososarcosine	Not commercial chemical product.	No action—currently on App. VIII.
Paraquat	Oral human LD_{Lo}=43 mg/kg	Add to § 261.33(e). Add to App. VIII.
Phenytoin	Oral child LD_{Lo}=67 mg/kg	Add to § 261.33(e). Add to App. VIII.
Phenytoin sodium	Oral woman LD_{Lo}=78 mg/kg	Add to § 261.33(e). Add to App. VIII.
Phosmet	Oral human LD_{Lo}=50 mg/kg Inhalation rat LC_{50}=0.124 mg/1/h.	Add to § 261.33(e). Add to App. VIII.
Polychlorinated biphenyls	Currently regulated under TSCA	No action[2].
5-Propyl-1,3-benzodioxole or dihydrosafrole.	Already regulated as U090.	
Silvex	Already regulated as U233	

[1] The means of regulating asbestos waste disposal is under review by EPA's Task Force on Asbestos. In addition, the Office of Air Quality Planning and Standards is updating its regulatory control of asbestos materials. Pending further resolution by these groups, we will not, at this time, propose to add asbestos to the § 261.33(f) list but will propose to include it in Appendix VIII. See 45 FR 78538 (November 25, 1980). Asbestos wastes which otherwise exhibit a RCRA hazardous waste characteristic, however, are considered hazardous wastes.

[2] The regulations of PCBs is currently under review. We will not, therefore, propose to add PCBs to CFR 261.33 at this time.

3. Additions to Appendix VIII.

As previously stated, chemicals are included in Appendix VIII if they have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. This includes those chemicals identified by the Agency's Carcinogen Assessment Group as having substantial evidence of carcinogenicity.

Compounds meeting the criteria for §§ 261.33 (e) and (f) as set forth in § 261.11(a) (1), (2), and (3) are therefore also included in Appendix VIII. In addition, the Agency proposes to add to Appendix VIII those potentially dangerous compounds identified by the petitioner but not included in § 261.33 (e) and (f) because they are not commercial chemical products. This is the first time the compound's CAS Registry Number is being included in Appendix VIII of 40 CFR Part 261; we anticipate issuing, in the near future, a technical amendment to the regulations to provide CAS numbers for all the Appendix VIII compounds.

III. Relationship to Other Regulatory Authorities

Questions have been asked why the Agency uses different criteria under the RCRA program to evaluate chemicals for regulation from those used under its other regulatory authorities administered by EPA. These differences are a result of the different objectives of each program and the different statutory standards governing each program.

For example, the Toxic Substances Control Act (TSCA), and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) require the Agency to balance the environmental hazards of a chemical with the benefits of its use. Thus, under FIFRA, the key determination for registration or cancellation of a pesticide is whether use or continued use "generally causes unreasonable adverse effects on the environment."

An "unreasonable adverse effect on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." Further, in determining whether to issue a notice of intent to cancel a registration, the Administrator must take into account the proposed action's impact on "production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy."

The purpose of TSCA is to prevent unreasonable risk of injury to human health or the environment from chemicals as a result of their manufacture, processing, distribution in commerce, use, or disposal. When regulating chemical products under TSCA, the Agency is required to consider the economic and social impact of any regulatory action and to balance such action against the benefits of using the chemical. The Act further directs the Agency to require testing to be conducted on such chemicals if it finds that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture may present an unreasonable risk of injury to health or the environment and that there is insufficient data to determine or predict the effect of such activities. In addition, TSCA requires that the potential manufacturer or importer of a new chemical substance submit a premanufacture notice to EPA. Based on a review of the notice and other relevant available information, TSCA allows the Administrator to prohibit or limit manufacturing (including import), processing, distribution in commerce, use, or disposal of the new chemical substance. Such action can be taken until information sufficient to evaluate health and environmental effects of a new chemical substance is provided, if EPA finds the activities may present an unreasonable risk of injury to health or the environment, or EPA may regulate permanently if it finds that there is a reasonable basis to conclude that the activities will present an unreasonable risk of injury to health or the environment.

No such balancing is involved in making hazardous waste listing determinations (or in identifying hazardous wastes by means of a characteristic) under the RCRA regulations. Wastes are to be regulated as hazardous if they are capable of posing a substantial threat to human health or the environment if managed improperly (RCRA section 1004(5)). No weighting of benefits is mentioned in the statute, nor is such a consideration even germane, since the disposition of solid or hazardous wastes ordinarily has little, if any, economic benefit.

Identification and listing of hazardous wastes thus is a significantly different type of determination than chemical review and regulation under FIFRA or under TSCA. Simply put, the social, economic and environmental benefits of a pesticide or other chemical may outweigh the respective risks and justify its registration and use, even though it may well pose a substantial threat to human health and the environment when disposed of, and therefore justify the controlled management required under RCRA.

In summary, the difference in evaluation criteria between RCRA, TSCA and FIFRA hinges on the fact that regulation under RCRA does not entail any deprivation to society of the use of the primary product whose production leads to the waste products. Regulation under FIFRA and TSCA, on the other hand, tends to control either the manufacture or use of the product (*e.g.*, ban on manufacture and use of PCBs, prohibition on use of unregistered pesticides), and thus leads to societal deprivation.

While the Agency strives for consistency in interpreting health and environmental effects data, it should be kept in mind that the differing regulatory framework in each program frequently results in a decision to regulate in one case and not to regulate in another. For example, it is likely that, even though a chemical may have toxic properties and is thus regulated under RCRA, no TSCA control is deemed necessary because the major route of exposure would result from improper waste management and its regulation under RCRA ensures proper disposal of the waste.

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Due to their inherent value, the regulated community does not usually discard substantial quantities of the materials listed in § 261.33 (e) and (f).

This amendment, which adds 120 compounds to Appendix VIII—Hazardous Consitutents, may have an impact on the Part 264 requirements for incineration and for ground-water monitoring. For incineration, operators are responsible for analyzing their wastes for all Appendix VIII constituents before initiation of a test burn. Thus, an increase in the number of chemicals may translate to an increase in the cost of the test burn. Ground water monitoring is somewhat more affected. If detection monitoring at a disposal facility indicates migration of leachate from the hazardous waste into the ground water, operators are required, at least annually, to monitor the ground-water for all the Appendix VIII constituents. Test methods are, however, not currently available for all of these compounds.

Actions currently being taken by the Agency should take care of these problems. Specifically, the Agency is in the process of revising the ground-water and incinerator monitoring requirements such that operators, in the future, would not have to analyze for all the Appendix VIII constituents. Operators only would have to monitor for those compounds for which EPA has published suitable methods in Test Methods for Evaluating Solid Waste (SW–846). Before the amendment which is the subject of today's proposal is made final, this change in the monitoring requirements will have been made. If for some reason the change is not accomplished, those compounds for which methods are not available will not be added to Appendix VIII.

The increase in cost to the regulated community from the expansion of Appendix VIII being proposed today is anticipated to be relatively minor. Of the total cost of hazardous waste management for these wastes, the only impact would be an increase of 5–20% in the cost of sample analysis. Since the Agency does not expect that the proposed action will result in either an effect on the economy of $100 million or more or that it will result in major increase in costs or prices to industry, this proposed regulation is not considered to be a major action. There will be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Since this proposed amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

Under section 3006 of RCRA, EPA may authorize qualified States to operate their State hazardous waste management programs in lieu of EPA operating the Federal program in those States. (See 40 CFR Part 271 for the standards and requirements for State Authorization.) Upon authorization of the State program, EPA suspends the operation within the State of those parts of the Federal program for which the State is authorized. At present, States are not required to provide identical identification mechanisms in order to be authorized. EPA may authorize State programs which contain identification mechanisms which are essentially equivalent to the RCRA regulations as long as the differences do not lead to the State regulations offering a significantly lower degree of protection.

Following the promulgation of this proposed amendment in final form, States which already have been granted final authorization will have to revise their programs in accordance with 40 CFR 271.21. Such authorized State programs must be revised within one year of the date of promulgation of this amendment, or within two years the State must amend or enact a statute in order to make the required revision.

All hazardous wastes designated by today's rule will, when this rule is made final, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"). (See CERCLA section 101(14).) CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities ("RQs") immediately notify the National Response Center of the release. (See CERCLA section 103 and 48 FR 23552 (May 25, 1983).) Except for those substances already on the list of CERCLA hazardous wastes substances, which will retain the RQ already assigned, all hazardous wastes designated under RCRA will have an RQ of one pound until adjusted by regulation under CERCLA. (See CERCLA section 102.)

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Room S–212A at EPA.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

The Agency does not believe that small entities will dispose of significant quantities of the commercial chemical products proposed for regulation. Today's amendment therefore is unlikely to have a significant economic impact on small entities. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: December 14, 1984.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 and 6922).

§ 261.33 [Amended]

2. Amend § 261.33(e) by adding, in alphabetical order, the following substances:

EPA hazardous waste No.	Substance
P124	Actinomycin D.
P125	Antimony, when in the form of particles 100 microns or less.
P150	Azinphos ethyl.
P151	Azinphos methyl.
P126	4,4'-Bipyridinium, 1,1'-dimethyl, dichloride.
P127	Carbamic acid, methyl-, 2,3-dihydro, 2,2-dimethyl-7-benzofuranyl ester.
P128	Carbamic acid, methyl, 4-dimethylamino-3,5-xylyl ester.
P127	Carbofuran.
P148	Carbophenothion.
P129	Chlorine.
P133	Chloroethanol.
P143	Chlorfenvinphos.
P130	Coumaphos.
P130	Coumarin, 3-chloro-7-hydroxy-4-methyl-, O-ester with O,O-diethyl phosphorothioate.
P131	Crotonic acid, 3-hydroxy-, methyl ester, dimethyl phosphate, (E)-.
P134	Cycloheximide.
P155	Demeton.
P144	Dichlorvos.
P146	Dicrotophos.
P132	Diethylamine, 2,2'-dichloro-N-methyl-.
P153	Dioxathion.
P141	EPN.
P133	Ethanol, 2-chloro-.
P154	Ethion.
P156	Fensulfothion.
P134	Glutarimide, 3-(2-(3,5-dimethyl-2-oxocyclohexyl)-2-hydroxyethyl)-.
P135	Hydantoin, 5,5-diphenyl-.
P136	Hydantoin, 5,5-diphenyl-, monosodium salt.
P137	Hydroquinone.
P138	Isonicotinic acid hydrazide.
P140	Leptophos.
P131	Mevinphos.
P128	Mexacarbate.
P147	Monocrotophos.
P158	Mustard gas.
P132	Nitrogen mustard.
P157	Oxydemeton-Methyl.
P126	Paraquate.
P135	Phenytoin.
P136	Phenytoin sodium.
P142	Phosacetim.
P152	Phosmet.
P145	Phosphamidon.
P139	Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-, dimethyl ester.
P140	Phosphonothioic acid, phenyl-, O-(4-bromo-2,5-dichlorophenyl) O-methyl ester.
P141	Phosphonothioic acid, phenyl-, O-ethyl O-(p-nitrophenyl) ester.
P142	Phosphoramidothioic acid, acetimidoyl-, O,O-bis(p-chlorophenyl) ester.
P143	Phosphoric acid, 2-chloro-1-(2,4-dichlorophenyl)vinyl diethyl ester.
P144	Phosphoric acid, 2,2-dichlorovinyl dimethyl ester.
P145	Phosphoric acid, dimethyl ester, ester with 2-chloro-N,N-diethyl-3-hydroxycrotonamide.
P146	Phosphoric acid, dimethyl ester, ester with (E)-3-hydroxy-N,N-dimethylcrotonamide.
P147	Phosphoric acid, dimethyl ester, ester with (E)-3-hydroxy-N-methylcrotonamide.
P148	Phosphorodithioic acid, S-((((p-chlorophenyl)thio)methyl) O,O-diethyl ester.
P149	Phosphorodithioic acid, O,O-diethyl-S-(((1,1-dimethylethyl)thio)methyl)-ester.
P150	Phosphorodithioic acid, O,O-diethyl ester, S-ester with 3-(mercaptomethyl)-1,2,3-benzotriazin-4(3H)-one.
P151	Phosphorodithioic acid, O,O-dimethyl ester, S-ester with 3-(mercaptomethyl)-1,2,3-benzotriazin-4(3H)-one.
P152	Phosphorodithioic acid, O,O-dimethyl ester, S-ester with N-(mercaptomethyl) phthalimide.
P153	Phosphorodithioic acid, S,S'-p-dioxane-2,3-diyl O,O,O',O'-tetraethyl ester.
P154	Phosphorodithioic acid, S,S'-methylene O,O,O',O'-tetraethyl ester.
P155	Phosphorothioic acid, O,O-diethyl O-(2-(ethylthio)ethyl) ester, mixed with O-O-diethyl S-(2-(ethylthio)ethyl) ester 7:3).
P156	Phosphorothioic acid, O,O-diethyl O-(p-(methylsulfinyl)phenyl) ester.
P157	Phosphorothioic acid, S-(2-(ethyl-sulfinyl) ethyl) O,O-dimethyl ester.
P158	Sulfide, bis(2-chloroethyl).
P149	Terbufos.
P139	Trichlorfon.

§ 261.33 [Amended]

3. Amend § 261.33(f) by adding, in alphabetical order, the following substances:

Hazardous waste No.	Substance
U250	Acenaphthene, 5-nitro-.
U251	Acetamide, N-(4-(5-nitro-2-furyl)-2-thiazolyl)-.
U252	Acetic acid, (4-(bis(2-chloroethyl) amino) phenyl)-, cholesteryl ester.
U317	Allyl chloride.
U264	2-Aminoanthraquinone.
U257	Aminoazobenzene.
U331	o-Aminoazotoluene.
U274	4-Aminobiphenyl.
U253	3-Amino-9-ethyl carbazole.
U265	1-Amino-2-methyl anthraquinone.
U254	Ammonium, (4-(p-(dimethylamino)-alpha-phenylbenzylidene)-2,5-cyclohexadien-1-ylidene)-dimethyl-, chloride.
U333	Anilazine.
U269	Aniline hydrochloride.
U255	Aniline, 4,4'-methylenebis(N,N-dimethyl-
U256	Aniline, 4,4'-methylenebis(2-methyl-.
U257	Aniline, p-(phenylazo)-.
U258	Aniline, 4,4'-thiodi-.
U259	Aniline, 2,4,5-trimethly-.
U260	o-Anisidine.
U261	o-Anisidine, hydrochloride.
U262	o-Anisidine, 5-methyl-.
U263	o-Anisidine, 5-nitro-.
U264	Anthraquinone, 2-amino.
U265	Anthraquinone, 1-amino-2-methyl-.
U266	Antimony (III) chloride.
U267	Antimony (V) chloride.
U326	Aramite.
U289	1-Aziridineethanol.
U280	Barban.
U268	Barbituric acid, 5-ethyl-5-phenyl-.
U278	Bendiocarb.
U271	Benomyl.
U269	Benzenamine, hydrochloride.
U270	Benzene, 1,2-(methylenedioxy)-4-(2-(octylsulfinyl)propyl)-.
U271	Benzimidazolecarbamic acid, 1-(butyl-carbamoyl)-, methyl ester.
U272	Benzonitrile, 3,5-dibromo-4-hydroxy-.
U273	(1)Benzopyrano(3,4-b)furo(2,3-h)(1) benzopyran-6(6aH)-one, 1,2,12,12a-tetrahydro-2-alpha iso-propenyl-8,9-dimethoxy-.
U274	4-Biphenylamine.
U275	Biphenyl, 4-nitro.
U272	Bromoxynil.
U276	1,3-Butadiene, 2-chloro.
U291	Calcium hypochlorite.
U285	Captafol.
U286	Captan.
U277	Carbamic acid, diethyldithio-, 2-chloroallyl ester.
U278	Carbamic acid, methyl-, 2,3-(dimethylmethylenedioxy)phenyl ester.
U279	Carbamic acid, methyl-, 1-naphthyl ester.
U280	Carbanilic acid, m-chloro-, 4-chloro- 2-butynyl ester.
U279	Carbaryl.
U321	Clonitralid.
U319	3-(Chloromethyl)pyridine, hydrochloride.
U305	4-Chloro-m-phenylenediamine.
U306	4-Chloro-o-phenylenediamine.
U276	Chloroprene.
U329	5-Chloro-o-toluidine.
U314	Chlorpyrifos.
U281	Cobalt, when in the form of particles 100 microns or less.
U282	Cobalt (II) chloride.
U262	p-Cresidine.
U283	Crotonic acid, 3-hydroxy-, alpha-methylbenzyl ester, dimethyl phosphate, (E)-.
U284	Crotonic acid, 2-(1-methylheptyl)-4,6-dinitrophenyl ester.
U283	Crotoxyphos.
U290	Cupferron.
U285	4-Cyclohexene-1,2-dicarboximide, N-((1,1,2,2-tetrachloroethyl)thio)-.
U286	4-Cyclohexene-1,2-dicarboximide, N-(trichloromethyl)thio-.
U307	2,4-Diaminoanisole sulfate.
U327	2,4-Diaminotoluene.
U313	Diazinon.
U299	Dichlone.
U325	Diethyl sulfate.
U284	Dinocap.
U287	Diphenylamine, 4-nitroso.
U288	Ether, 2,4-dichlorophenyl p-nitrophenyl.
U315	Fenthion.
U330	Fluchloralin.
U296	Heptachlor epoxide.
U312	Hexamethyl phosphoramide.
U289	N-(2-Hydroxyethyl)ethyleneimine.
U290	Hydroxylamine, N-nitroso-N-phenyl-, ammonium salt.
U291	Hypochlorous acid, calcium salt.
U292	Hypochlorous acid, sodium salt.
U293	2-Imidazolidinone, 1-(5-nitro-2-thiazolyl)-.
U294	Ketene.
U318	Lactonitrile.
U295	Lithium.
U254	Malachite green.
U324	Malathion.
U301	Mestranol.
U296	4,7-Methanoindan, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7a-tetrahydro-.
U297	1,3,4-Metheno-1H-cyclobuta(cd) pentalene, 1,1a,2,2,3,3a,4,5,5,5a,5b,6-dodecachlorooctahydro-.
U255	4,4'-Methylenebis(n,N-dimethylaniline).
U256	4,4'-Methylenebis(2-methylaniline).
U297	Mirex.
U309	Naled.
U298	1,5-Naphthalenediamine.
U299	1,4-Naphthoquinone, 2,3-dichloro-.
U300	Nickel, when in the form of particles 100 microns or less.
U293	Niridazole.
U335	Nithiazide.
U250	5-Nitroacenaphthene.
U263	5-Nitro-o-anisidine.
U275	4-Nitrobiphenyl.
U288	Nitrofen.
U251	N-(4-(5-Nitro-2-furanyl)-2-thiazolyl)-acetamide.
U287	p-Nitrosodiphenylamine.
U301	17-alpha-19-Norpregna-1,3,5(10)-trien-20-yn-17-oi, 3-methoxy-.
U302	2-Oxetanone.
U303	4,4'-Oxydianiline.
U304	Peroxyacetic acid.
U320	Phenazopyridine hydrochloride.
U252	Phenesterin.

Hazardous waste No.	Substance
U268	Phenobarbital.
U305	m-Phenylenediamine, 4-chloro.
U306	o-Phenylenediamine, 4-chloro.
U307	m-Phenylenediamine, 4-methoxy-, sulfate.
U308	Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl ester.
U309	Phosphoric acid, 1,2-dibromo-2,2-dichloroethyl dimethyl ester.
U310	Phosphoric acid, trimethyl ester.
U311	Phosphoric acid, tri-o-tolyl ester.
U312	Phosphoric triamide, hexamethyl-.
U313	Phosphorothioic acid, O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) ester.
U314	Phosphorothioic acid, O,O-diethyl O-(3,5,6-tri- -chloro-2-pyridyl) ester.
U315	Phosphorothioic acid, O,O-dimethyl-, O-(4-methylthio)-m-tolyl) ester.
U270	Piperonyl sulfoxide.
U316	Polybrominated biphenyls.
U317	Propene, 3-chloro-.
U302	beta-Propiolactone.
U318	Propionitrile, 2-hydroxy-.
U334	Propylthiouracil.
U319	Pyridine, 3-chloromethyl-, hydrochloride.
U320	Pyridine, 2,6-diamino-3-(phenylazo)-, monohydrochloride.
U273	Rotenone.
U321	Salicylanilide, 2',5-dichloro-4'-nitro-, compd. with 2-aminoethanol (1:1).
U322	Semicarbazide.
U292	Sodium hypochlorite.
U323	Styrene.
U324	Succinic acid, mercapto-, diethyl ester, S-ester with O,O-dimethyl phosphorodithioate.
U277	Sulfallate.
U325	Sulfuric acid, diethyl ester.
U326	Sulfurous acid, 2-(p-t-butylphenoxy)-1-methylethyl-2-chloroethyl ester.
U308	Tetrachlorvinphos.
U258	4,4'-Thiodianiline.
U327	Toluene, 2,4-diamino-.
U328	o-Toluidine.
U329	o-Toluidine, 5-chloro.
U330	p-Toluidine, N-(2-chloroethyl)-2,6-dinitro-N-propyl-alpha,alpha, alpha-trifluoro-.
U331	o-Toluidine, 4-(o-tolylazo)-.
U332	p-Toluidine, alpha,alpha,alpha-trifluror-2,6-dinitro-N,N-dipropyl-.
U333	S-Triazine, 2,4-dichloro-6-(o-chloro-anilino)-.
U311	Tricresyl phosphate.
U332	Trifluralin.
U259	2,4,5-Trimethylaniline.
U310	Trimethyl phosphate.
U334	Uracil, 6-propyl-2-thio-.
U335	Urea, 1-ethyl-3-(5-nitro-2-thizaolyl)-.
U336	Zinc, bis(dimethyldithiocarbamato)-
U336	Ziram.

Appendix VIII—[Amended]

4. Amend Part 261 Appendix VIII by adding, in alphabetical order, the following hazardous constituents (with CAS Numbers):

Hazardous constituent	CAS No.
Acenaphthene, 5-nitro-	602-87-9
Acetamide N-(4-(5-nitro-2-furyl)-2-thiazolyl)-	531-82-8
Acetic acid, (4-(bis(2-chlorethyl)amino)phenyl)-, cholesteryl ester	3546-10-9
Actinomycin D	50-76-0
3-Amino-9-ethyl carbazole	132-32-1
Ammonium, (4-(p-(diamethylamino)-alpha-phenylbenzylidene)-2,5-cyclohexadien-1-ylidene)-dimethyl-, chloride	569-64-2
Aniline, 4,4'-methylenebis(N,N-dimethyl-	101-61-1
Aniline, 4,4'-methylenebis(2-methyl-	838-88-0
Aniline, p-(phenylazo)-	60-09-3
Aniline, 4,4'-thiodi-	139-65-1
Aniline, 2,4,5-trimethyl-	137-17-7
o-Anisidine	90-04-0
o-Anisidine hydrochloride	134-29-2
o-Anisidine, 5-methyl-	2
o-Anisidine, 5-methyl-	120-71-8
o-Anisidine, 5-nitro-	99-59-2
Anthraquinone, 2-amino	117-79-3
Anthraquinone, 1-amino-2-methyl	82-28-0
Anthraquinone, 2-methyl-1-nitro-	129-15-7
Asbestos	1332-21-4
Barbituric acid, 5-ethyl-5-phenyl-	50-06-6
Benzenamine, hydrochloride	142-04-1
Benzene, 1,2-(methylenedioxy)-4-(2-(octylsulfinyl)prophyl)-	120-62-7
Benzidine sulfate	531-86-2
Benzimidazolecarbamic acid, 1-(butylcarbamoyl)-, methyl ester	17804-35-2
Benzonitrile, 3,5-dibromo-4-hydroxy	1689-84-5
(1) Benzopyrano(3,4-b)furo(2,3-h)(1)benzopyran-6(6aH)-one, 1,2,12,12a-tetrahydro-2-alpha-isopropenyl-8,9-dimethoxy-	83-79-4
Biphenyl, 4-nitro	92-93-3
4,4'-Bipyridinium, 1,1'-dimethyl-, dichloride	1910-42-5
1,3'-Butadiene, 2-chloro-	126-99-8
1-Butanol, 4-(butylnitrosoamino)-	3817-11-6
Carbamic acid, diethyldithio-, 2-chloroallyl ester	95-06-7
Carbamic acid, methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester	1563-66-2
Carbamic acid, methyl-, 4-dimethylamino-3,5-xylyl ester	315-18-4
Carbamic acid, methyl-, 2,3-(dimethylmethylenedioxy)	22781-23-3
Carbamic acid, methyl-, 1-naphthyl ester	63-25-2
Carbanilic acid, m-chloro-, 4-chloro-2-butynyl ester	101-27-9
Chlorine	7782-50-5
Cobalt, when in the form of particles 100 microns or less	7440-48-4
Cobalt (II) chloride	7646-79-9
Coumarin, 3-chloro-7-hydroxy-4-methyl-, O-ester with O,O-diethyl phosphorothioate	56-72-4
Crotonic acid, 3-hydroxy-, alpha-methylbenzyl ester, dimethyl phosphate, (E)-	7700-17-6
Crotonic acid, 3-hydroxy-, methyl ester, dimethyl phosphate, (E)-	7786-34-7
4-Cyclohexene-1,2-dicarboximide, N-((1,1,2,2-tetrachloroethyl)thio)-	2425-06-1
4-Cyclohexene-1,2-dicarboximide, N-(trichloromethyl)thio-Diphenylamine, 4-nitroso	156-10-5
Ethanol, 2-chloro-	107-07-3
Ether, 2,4-dichlorophenyl p-nitrophenyl	1836-75-5
Formic acid, 2-(4-(5-nitro-2-furyl)-2-thiazolyl)hydrazide	3570-75-0
Glutarimide, 3-(2-(3,5-dimethyl-2-oxocyclohexyl)-2-hydroxyethyl)-	66-81-9
Heptachlor epoxide	1024-57-3
Hydantoin, 5,5-diphenyl-	57-41-0
Hydantoin, 5,5-diphenyl-, monosodium salt	630-93-3
Hydroquinone	123-31-9
N-(2-Hydroxyethyl)ethyleneimine	1072-52-2
Hydroxylamine, N-nitroso-N-phenyl-, ammonium salt	135-20-6
Hypochlorous acid, calcium salt	7778-54-3
Hypochlorous acid, sodium salt	7681-52-9
2-Imidazolidinone, 1-(5-nitro-2-thiazolyl)-	61-57-4
Isonicotinic acid hydrazide	54-85-3
Ketene	463-51-4
Lithium	7439-93-2
1,3,4-Metheno-1H-cyclobuta[cd]pentalene, 1,1a,2,2,3,3a,4,5,5,5a,5b,6- dodecachlorooctahydro	2385-85-5
1,5-Naphthalenediamine	2243-62-1
1,4-Naphthoquinone, 2,3-dichloro-	117-80-6
17-alpha-19-Norpregna-1,3,5(10)-trien-20-yn-17-ol, 3-methoxy-	72-33-3
2-Oxetanone	57-57-8
4,4'-Oxydianiline	101-80-4
Peroxyacetic acid	79-21-0
m-Phenylenediamine, 4-chloro-	5131-60-2
o-Phenylenediamine, 4-chloro-	95-83-0
m-Phenylenediamine, 4-methoxy-, sulfate	39156-41-7
Phosphonic acid, (2,2,2-trichloro-l-hydroxyethyl)-, dimethyl ester	52-68-6
Phosphonothioic acid, phenyl-, O-(4-bromo-2,5-dichlorophenyl) O-methyl ester	21609-90-5
Phosphonothioic acid, phenyl-, O-ethyl O-(p-nitrophenyl) ester	2104-64-5
Phosphoramidothioic acid, acetimidoyl-, O,O-bis(p-chlorophenyl) ester	4104-14-7
Phosphoric acid, 2-chloro-1-(2,4-dichlorophenyl)vinyl diethyl ester	470-90-6
Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl ester	961-11-5
Phosphoric acid, 1,2-dibromo-2,2-dichloroethyl dimethyl ester	300-76-5
Phosphoric acid, 2,2-dichlorovinyl dimethyl ester	62-73-7
Phosphoric acid, dimethyl ester, ester with 2-chloro-N,N-diethyl-3-hydroxycrotonamide	13171-21-6
Phosphoric acid, dimethyl ester, ester with (E)-3-hydroxy-N,N-dimethylcrotonamide	141-66-2
Phosphoric acid, dimethyl ester, ester with (E)-3-hydroxy-N-methylcrotonamide	6923-22-4
Phosphoric acid, trimethyl ester	512-56-1
Phosphoric acid, tri-o-tolyl ester	78-30-8
Phosphoric triamide, hexamethyl-	680-31-9
Phosphorodithioic acid, S-(((p-chlorophenyl)thio)methyl) O,O-diethyl ester	786-19-6
Phosphorodithioic acid, O,O-diethyl-S-(((1,1-dimethylethyl)thio)methyl) ester	13071-79-9
Phosphorodithioic acid, O,O-diethyl ester, S-ester with 3-(mercaptomethyl)-1,2,3-benzotriazin-4(3H)-one	2642-71-9
Phosphorodithioic acid, O,O-dimethyl ester, S-ester with 3-(mercaptomethyl)-1,2,3-benzotriazin-4(3H)-one	86-50-0
Phosphorodithioic acid, O,O-dimethyl ester, S-ester with N-(mercaptomethyl)phthalimide	732-11-6
Phosphorodithioic acid, S,S'-p-dioxane-2,3-diyl O,O,O',O'-tetraethyl ester	78-34-2
Phosphorodithioic acid, S,S'-methylene O,O,O',O'-tetraethyl ester	563-12-2
Phosphorothioic acid, O,O-diethyl O-(2-(ethylthio)ethyl) ester, mixed with O,O-diethyl S-(2-(ethylthio)ethyl) ester (7:3)	8065-48-3
Phosphorothioic acid, O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) ester	333-41-5
Phosphorothioic acid, O,O-diethyl O-(p-(methylsulfinyl)phenyl) ester	115-90-2
Phosphorothioic acid, O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) ester	2921-88-2
Phosphorothioic acid, O,O-dimethyl-, O-(4-methylthio)-m-tolyl) ester	55-38-9
Phosphorothioic acid, S-(2-(ethylsulfinyl)ethyl) O,O-dimethyl ester	301-12-2
Polybrominated biphenyls	59536-65-1
Propene, 3-chloro-	107-05-1
Propionitrile, 2-hydroxy-	78-97-7
Pyridine, 3-chloromethyl-, hydrochloride	6959-48-4
Pyridine, 2,6-diamino-3-(phenylazo)-, monohydrochloride	136-40-3
(2,3,4-gh)Pyrrolizine-2,6(3H)-dione, (4,5,8,10,12,13,13a,13b-octahydro-4,5-dihydroxy- 3,4,5-trimethyl-2H-(1,6)dioxacycloundecino-	315-22-0
Salicylanilide, 2',5-dichloro-4'-nitro-, compd. with 2-aminoethanol (1:1)	1420-04-08
Semicarbazide	57-56-7
Styrene	100-42-5
Succinic acid, mercapto-, diethyl ester, S-ester with O,O-dimethyl phosphorodithioate	121-75-5
Sulfuric acid, diethyl ester	64-67-5
Toluene, 2,4-diamino-	95-80-7
o-Toluidine	95-53-4
o-Toluidine, 5-chloro-	95-79-4
p-Toluidine, N-(2-chloroethyl)-2,6-dinitro-N-propyl-alpha,alpha,alpha-trifluoro-	33245-39-5
o-Toluidine, 4-(o-tolylazo)-	97-56-3
p-Toluidine, alpha,alpha,alpha-trifluoro-2,6-dinitro-N,N-dipropyl-	1582-09-8
Triazene, 3,3-dimethyl-l-(p-chlorophenyl)-	7203-90-9
S-Triazine, 2,4-dichloro-6-(o-chloroanilino)-	101-05-3
Uracil, 6-propyl-2-thio-	51-52-5
Urea, 1-ethyl-3-(5-nitro-2-thiazolyl)-	139-94-6
Zinc, bis(dimethyldithiocarbamato)-	137-30-4

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Friday
December 21, 1984

Part IV

Environmental Protection Agency

Ethylene Dibromide Pesticide Products; Procedures for Submission of Claims for Indemnification and Disposal; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2739-5; OPP-150001]

Ethylene Dibromide Pesticide Products; Procedures for Submission of Claims for Indemnification and Disposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Procedures for Requesting Indemnification and Disposal for Pesticide Products Containing Ethylene Dibromide (EDB).

SUMMARY: This Notice announces that EPA is accepting claims for indemnification and requests for disposal concerning EDB-containing pesticides used for soil fumigation and fumigation of grain and grain milling equipment under sections 15 and 19 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136 m and q). This Notice provides information to persons who may be entitled to Federal disposal of excess pesticide stocks and indemnification for losses suffered as a result of regulatory actions taken by EPA with respect to these products. It sets out who may be entitled to indemnification and how claims for Federal disposal and indemnification should be prepared and submitted to the agency.

DATE: All claims filed as a result of this Notice must be postmarked by March 20, 1985, in order to be considered.

ADDRESS: All claims filed as a result of this Notice should be mailed to: Special Review Branch (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Linda Vlier, Special Review Branch (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
Office location and telephone number: Rm. 711, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7451).

SUPPLEMENTARY INFORMATION:

I. Background

Section 6 of FIFRA authorizes the Administrator to take certain actions to prohibit production, sale, and use of pesticide products that cause danger to human health or the environment. He may cancel or suspend the registration of a pesticide, depending upon the degree of hazard posed by continued registration.

The Administrator may cancel a pesticide registration if he finds that its use generally causes unreasonable adverse effects on the environment. A notice of intent to cancel becomes effective within 30 days after registrants receive notice, unless affected registrants request a hearing. If action is necessary to prevent an imminent hazard to human health, he may suspend a pesticide registration immediately, and at the same time issue a notice of intent to cancel the registration. A suspension order immediately halts all sale or distribution of the pesticide in both intrastate and interstate commerce.

Based on information on the adverse human health risks posed by certain EDB-containing pesticide products, the Administrator took several actions. On September 28, 1983, he issued an emergency suspension of the registrants of pesticides labeled for use as a soil fumigant, as published in the **Federal Register** of October 11, 1983 (48 FR 46228). From that date forward, all persons were prohibited from selling or distributing any products with suspended registrations. The Administrator also placed a time limitation of September 1, 1984, on continued use of soil fumigants containing EDB that had been purchased prior to the suspension order, as published in the **Federal Register** of October 11, 1984 (48 FR 46242).

On September 28, 1983, the Administrator also issued a notice of intent to cancel registrations of products labeled for spot treatment of grain milling equipment and for fumigation of grain stored in bulk, as published in the **Federal Register** of Oct. 11, 1983 (48 FR 46234). In accordance with section 6 of FIFRA, the cancellations were to become effective 30 days after publication of the notice, unless the registrant, or other adversely affected person, requested a hearing to contest the cancellation of specific registrations. Upon the expiration of the 30-day period, most registrations for grain and grain milling products were cancelled by operation of law. Sale and distribution of the cancelled products was halted, but use of existing stocks for application to grain and grain milling equipment was allowed. However, it those instances where registrants requested hearings, registrations remained in effect pending the outcome of the administrative hearing, and products with such registrants could legally be sold and distributed pending the outcome of the hearing.

As a result of additional information gathered by EPA on the grain and grain milling uses of EDB after the September 1983 cancellation notice, on February 3, 1984, EPA issued an emergency order immediately suspending the remaining registrations of EDB pesticide product labeled for use as a fumigant for stored grain and/or spot treatment for grain milling equipment, as published in the **Federal Register** of February 6, 1984 (49 FR 4452). In addition to prohibiting sale and distribution of any pesticide product labeled for these uses, the emergency suspension order also prohibited the use by any person of any EDB pesticide product on grain and grain milling equipment.

The Agency is now establishing procedures to indemnify for and dispose of EDB products suspended and cancelled under FIFRA section 6. At this time, the Agency does not have funds allocated to make indemnification payments or to provide federal disposal; however, the Agency is pursuing obtaining funding for these activities. If only partial funding becomes available for these activities, the Agency will provide Federal disposal of eligible products before indemnification awards are made.

II. Requirements for Indemnification and Disposal

Section 15 requires EPA to make indemnity payments to any person who suffers economic loss by reason of suspension or cancellation of a pesticide registration and who satisfies other statutory requirements. The statute provides that indemnification is payable if all of the following conditions are met:

1. The Administrator suspended the registration to prevent an imminent hazard.
2. The registration was cancelled.
3. The person owned some quantity of the pesticide immediately before the suspension.
4. The person suffered losses by reason of the suspension or cancellation.

Under section 15(b), the amount of indemnity payment is to be determined on the basis of the cost of the pesticide owned by the person immediately before the suspension, but may not exceed the pesticide's fair market value at that time.

Section 19(a) requires the Administrator to accept at convenient locations for safe disposal those pesticides the registrations of which have been suspended and cancelled as specified in section 6(c) of FIFRA, if requested by the owner of the pesticide.

A. Who Is Eligible for Indemnification and Disposal

The right to indemnification extends to "any person" who meets the

requirements of section 15 of FIFRA. Section 15 of FIFRA requires the claimant to show that the registrations of its products have been suspended and cancelled, and that the claimant has suffered economic loss as a result of either the suspension or the cancellation. Unless a claimant can establish each of these elements, he will not satisfy the statutory criteria. Whether a particular claimant is eligible for indemnification will depend on the regulatory actions taken against the particular EDB product owned.

Because the right of indemnification extends to "any person" who owned suspended and cancelled EDB pesticide products and may have suffered economic loss, indemnity payments may be made not only to registrants and producers, wholesale and retail sellers, but also to individual users who owned the products at the time of suspension.

Similarly, disposal under section 19 may be requested by any owner of excess pesticide stocks, so long as the pesticide registration was suspended and cancelled.

There were five categories of products affected by the September 1983 and February 1984 suspension and cancellation actions:

1. Suspended and cancelled grain and grain milling products.
2. Suspended and cancelled soil fumigants.
3. Cancelled grain and grain milling fumigants.
4. Soil, grain, and grain milling products with intrastate registrations.
5. Soil, grain, and grain milling products with inactive registrations as of September 1983.

There is some uncertainty regarding the eligibility of some categories of these products for indemnification and disposal because some EDB product registrations arguably were not suspended and cancelled within the meaning of sections 15 and 19(a). However, EPA will attempt to clarify its authority to indemify all product owners and to dispose of all EDB pesticides. In the meantime, all persons who fall within any one of the above categories should file a claim with EPA under the procedures outlined in this Notice.

1. *Holders of EDB suspended and cancelled soil fumigation products with active registrations in September 1983.* On September 28, 1983, the Administrator issued an emergency suspension of all registrations for EDB-containing soil fumigants. The suspension order immediately halted all sale or distribution of the products, but permitted use of the products to continue until September 1, 1984. On September 28, 1983, the Administrator also issued a notice of intent to cancel the registrations of these products.

All EDB soil fumigant product registrations have been cancelled; thus, registrants, producers, and sellers of soil fumigants qualify for indemnification and disposal if the registrations of their particular products were suspended and cancelled. Their claims are not affected by the date on which the registration was cancelled, provided that cancellation occurred after the September 28, 1983 suspension order.

In addition, owners of such products who purchased them for their own use may be eligible for indemnification and disposal of stocks they were unable to use by September 1, 1984, the date on which their permission to use the pesticides terminated.

2. *Holders of EDB grain or grain milling fumigation products with active registrations in September 1983.* When the Administrator issued a notice in September 1983, proposing cancellation of registrations for grain or grain milling uses, most registrants did not challenge the proposed cancellations and their registrations were cancelled after 30 days by operation of law. However, several registrants did challenge the cancellation notice; their registrations remained in effect pending a cancellation hearing. In February 1984, EPA issued an emergency order suspending the registrations of the remaining products for which registrations had not been cancelled and prohibiting the continued use of any EDB grain fumigant products.

Thus, EDB products registered for grain and grain milling uses as of September 28, 1983, fall into two categories:

1. Products with registrations suspended by the February 1984 order and subsequently cancelled.
2. Products with registrations cancelled after the September 28, 1983 notice and before the February 1984 suspension order.

a. *Holders of suspended and cancelled EDB grain or grain milling products.* Registrants, producers, sellers, and end-users holding EDB grain or grain milling products which were suspended and subsequently cancelled qualify for indemnification for losses resulting from the regulatory actions. The February 1984 suspension order halted all sale and use of those products that had not been cancelled by the September 1983 action, so that only losses suffered after the suspension action would be indemnifiable. In addition, any persons who currently own stocks of the suspended products are entitled to Federal disposal of those stocks.

b. *Holders of cancelled EDB grain or grain milling products.* Registrations of grain and grain milling products for which hearings were not requested and which were cancelled under the September 1983 cancellation notice arguably were not affected by the February 1984 suspension order insofar as sale or distribution was concerned. Therefore, there is some uncertainty whether owners of these products qualify for indemnification or disposal. Registrants, producers and sellers of these products may reuest Federal disposal and claim indemnification; they will be informed later whether these requests and claims will be granted.

The February 1984 suspension order prohibited continued use of cancelled products; therefore, users of grain and grain milling products may be eligible for Federal disposal and indemnification for products they were unable to use after February 3, 1984, and may file claims with the Agency.

3. *Holders of EDB soil, grain, or grain milling products with registrations amended or cancelled between December 1980 and September 1983.* Prior to the September 1983 regulatory actions, some registrants had amended their product registrations to eliminate EDB as an active ingredient. Therefore, the registrants arguably were not subject to the September 1983 and February 1984 regulatory actions because they were not holding registrations for EDB products. However, inventories of EDB products produced prior to the amendment (or voluntary cancellation) of these registrations were held by some persons. Once the suspension actions were taken, inventories of the grain and grain milling products could no longer be legally used after February 3, 1984, and inventories of soil fumigants could not be used after September 1, 1984. Thus, claims may be submitted by registrants, sellers and users for EDB products produced prior to the registration amendment and owned at the time of suspension. Claimants will be informed later whether these claims will be granted.

4. *Holders of products with intrastate registrations.* At the time of the September 28, 1983 suspension order, certain products containing EDB for soil fumigation and grain uses were being marketed under State pesticide registrations in accordance with EPA regulations at 40 CFR 162.17. The September 28, 1983, order gave notice to registrants of such products that EPA's permission for their marketing without Federal registration was being

withdrawn and that applications for federal registration would be denied.

These products, never being federally registered, arguably were not subject to the suspension actions. However, a recent U.S. Claims Court decision in *Gro-Green Products, Inc.* v. *United States* (U.S. Cl. Ct. No. 2-83L, November 7, 1983), held that a New York State registrant of a silvex pesticide product is entitled to indemnification for its pesticides along with Federal registrants who were subject to a February 28, 1979, silvex suspension order. As this case may affect intrastate registrants' eligibility for disposal and indemnification for EDB products, claims may be submitted.

B. Who May File Claims for Indemnification and Disposal

Any person who owned some quantity of soil or grain/spot fumigant containing EDB immediately before the applicable registrations were suspended, or who subsequently acquired the product from the original owner through recall or repurchase, may claim indemnification for the product. The claimant, or owner of the product may be a registrant, manufacturer, distributor, retailer, or user.

Claims may be filed by persons representing, in some legal capacity, the product owners at the time of suspension or cancellation. Some registrants and suppliers have recalled product from their customers who owned the product at the time of suspension or cancellation. EPA is interested in consolidating as many claims as possible, and therefore, encourages submission of consolidated claims through assignment, power of attorney, or other legal representation.

A power of attorney is a document which appoints someone (the registrant, for example), as the agent of the owner, and gives him authority to submit an indemnification claim and receive payment on the owner's behalf. The claim remains that of the pesticide owner. If the pesticide owner instead assigns his claim to another person, the document of assignment transfers his right to indemnification to the other person. The pesticide owner thereafter has no legal interest in the claim. In either situation the validity of the claim depends on whether the agent or assignee obtained the right to present it from a person who is eligible for indemnification under section 15. Although the Federal Anti-Assignment of Claims Act would ordinarily bar the assignment of claims against the government, the government has consented to waive the defense with regard to otherwise valid claims for indemnification under section 15.

EPA does require information on the current ownership and location of the product, as well as the ownership at the time of suspension or cancellation. For purposes of determining who owned the product at the time of suspension or cancellation, the operative dates are: September 28, 1983, for owners of soil fumigants; and February 3, 1984, for owners of fumigants for grain and grain milling machinery.

The following list gives the registration number and product names of the following EDB formulations:

1. Suspended and cancelled soil fumigants.

2. Suspended and cancelled grain and grain milling fumigants.

3. Grain and grain milling fumigants cancelled by operation of law.

4. Soil, grain and grain milling fumigants with intrastate registrations.

Suspended and Cancelled Soil Fumigants

Daly Herring Company

000240-00098 Bacco Fumigant 85

FMC Corporation

000279-00480 Niagara Soilfume 85
000297-01730 New Fieldfume Nematicide

Dow Chemical USA

000464-00121 Dowfume W-85
000464-00257 Dow Dorlone Soil Fumigant
000464-00424 EDB 85; High Strength Soil Fumigant
000464-00427 Ethylene Dibromide; Dowfume W-100 Full Strength Soil Fumigant
000464-00565 Dowfume W-90

Velsicol Chemical Corporation

000876-00259 Pestmaster Fumigant EDB-85

Griffin Corporation

001812-00054 Dowfume W-40 A Fumigant for Controlling Wireworms and Root Knot Nematodes

Triangle Chemical Company

001842-243 Triangle Dowfume W-40

Gold Kist Inc.

002269-00106 Cotton Producers Association Fumigant EDB-40

Kerr McGee Chemical Corporation

002342-00901 Bromofume 85

Carter Insect & Chemical Company, Inc.

002917-00074 Carterfume 85

Ethyl Corporation

003377-00010 T-H EDB 40
003377-00011 T-H EDB 85
003377-00012 Ethyl EDB 95
003377-00013 Ethyl EDB 93WE
003377-00014 EDB 100

Southern Agricultural Chemicals, Inc.

003743-00181 Royal Fume 85

Smith Douglass, Inc.

004165-00454 Smith-Douglass Dowfume W-85

Great Lakes Chemical Corporation

005785-00018 Soilbrom 85
005785-00030 Soilbrom 40
005785-00035 A Gel 50 Preplant Soil Fumigant
005785-00037 Terr-O-Gel 68
005785-00039 Terr-O-Cide 30
005785-00043 Terr-O-Cide 15
005785-00044 Terr-O-Cide 93.5 Soil Fumigant
005785-00050 Terr-O-Cide 72-27
005785-00053 Terr-O-Cide 54-45
005785-00054 Soilbrom 90
005785-00059 Soilbrom 100
005785-00060 Soilbrom 90EC

Occidental Chemical Company

007001-00222 EDB 85

Soil Chemical Corporation

008536-00013 Chlor-o-brom 93.5

Agway, Inc. Crop Services

008590-00279 Agway Dowfume W-85

Ameribrom, Inc.

008622-00008 Edabrom 85

Hendrix & Dail, Inc.

008853-00005 Dowfume W-85 High Strength Soil Fumigant

Landia Chemical Company

009859-00132 Fasco Fume EDB-40
009859-00226 Fasco Fume EDB-85 Soil Fumigant

Western Farm Service, Inc.

011656-00019 Coast-O-Fume W-85

Asgrow Florida Company

014775-00003 EDB-85
014775-00024 Kil-Fume 40

Soweco, Inc.

021327-00003 Larvacide

Suspended and Cancelled Grain and Grain Milling Fumigants

Bartels & Shores Chemical Company

000413-00051 Grainfume Pioneer Brand; Pioneer Brand Grain Fumigant

Douglas Chemical Company

001015–00010 Douglas Tetrafume Weevil Killer and Grain Conditioner
001015–00020 Douglas Tetrakil Weevil Killer and Grain Conditioner
001015–00022 Tetraspot "Farm Bin Fume" Grain and Spot; Douglas Suffokato No. 3 Grain and Mill Spot Fumigant

Farmland Industry, Inc.

001990–00184 Weevil Killer Fumigant (liquid grain fumigant); Coop New Activate Weevil Killer Fumigant

PBI Gordon Corporation

002217–00108 914 Weevil Killer and Grain Conditioner

Vulcan Materials Company

005382–00001 Formula 635 Grain Fumigant (FC–2)
005382–00004 Formula 815 Grain Fumigant (FC–3)
005382–00007 FC–7 Grain Fumigant
005382–00009 Vulcan Mill Machinery Fumigant; (FC–13) Mill Machinery Fumigant
005382–00011 Grain Storage Fumigant; (FC–4) SX Grain Storage Fumigant
005384–00015 Frontier Chlorofume Grain Fumigant

J-Chem A Division of Fumigators, Inc.

036301–00004 J-Fume 20 (spot)
036301–00008 J-Fume C (grain)

Cancelled Grain and Grain Milling Fumigants

Uniroyal Chemical

000400–00192 De-Pester Weevil Kill
000400–00193 De-Pester Fumigant No. 2
000400–00197 Spot Fumigant
000400–00200 De-Pester Grain Conditioner and Weevil Killer

Dow Chemical USA

000–464–00032 Dowfume EB–15 Inhibited
000–464–00097 Dowfume EB–5 Effective Grain Fumigant
000–464–00171 Dowfume C
000–464–00181 Serfume
000–464–00193 Dowfume F
000–464–00216 Dowfume EB–59
000–464–00378 Dow Dowfume EB–70 Spot Fumigant for Milling Machinery
000–464–00444 Dow Fume (R) EB–30

Stauffer Chemical

000–476–01543 Trifum—A Grain Fumigant

Industrial Fumigant

000485–00006 Infuco Dibrome Spot Fumigant
000485–00015 Infuco 50–50 Spot Fumigant
000485–00016 Infuco Two-in-One Grain Fumigant

Selig Chemical Industries

000491–00082 Selig's Grain Fumigant No. 15
000491–00154 Grainfume MB
000491–00190 Selig's Grain Storage Fumigant

Van Waters & Rogers

000550–00104 Mclean's S–T–D; Nomco S–T–D

Prentiss Drug & Chemical

000655–00624 Parsons Lethogas Fumigant

Velsicol Chemical Corp.

000876–00259 Pestmaster Fumigant EDB–85

Leitte E.H. Company

000939–00025 Leitte Spotfume 60

Patterson Chemical

002169–00092 Patterson's Weevil Killer

Research Products

002548–00003 Max Spot Kill Machinery Fumigant
002548–00013 Max Kill 10 Liquid Grain Fumigant
002548–00048 Max Kill Spot-59 Spot Fumigant for Mills & Milling Machinery

Brayton Chemicals

002993–00023 Brayton EB–5 Grain Fumigant

Ferguson Fumigants

003886–00001 Dawson 73 Fumigant; Low Dose Spot
003886–00003 Dawson (R) 37 Fumigant
003886–00018 Waco-50

Cardinal Chemical

005440–00020 (FC–13) Mill Machinery Fumigant
005440–00022 Formula 635 (FC–2) Grain Fumigant

Mid America Chemical

036480–00047 Grain Fumigant No. 1
036480–00050 Macco Grain Fumigant and Spot Treatment
036480–00051 Macco Grain Fumigant and Conditioner

Kaw Valley Warehousing

044215–00058 Grain Fumigant and Conditioner
044215–00059 Grain Fumigant and Spot Treatment
044215–00060 Grain Fumigant No. 1

Soil, Grain and Grain Milling Fumigants With Intrastate Registrations

Dow Chemical Company

000464–06869 (Hawaii) Ethylene Dibromide
000464–06900 (California) Dowfume W–85

Griffin Corp.

001812–03880 (Florida) Dowfume W–85

The Staffel Co.

003286–08098 (Texas) Staffels Grain Fumigant; Ferd Staffel's Special Grain Fumigant

AMVAC Chemical Corp.

005481–03845 (California) Fum-A-Cide 54–45
005481–03846 (California) Fum-A-Cide 30
005481–03847 (California) Fum-A-Cide 15

Great Lakes Chemical Corp.

005785–03672 (Washington) Terr-O-Cide 54–45
005785–03674 (Washington) Soilbrom 85
005785–03677 (Oregon) Terr-O-Cide 54–44
005785–03679 (Oregon) Soilbrom 85
005785–03687 (California) Terr-O-Cide 30
005785–03692 (California) Soilbrom 85

Western Farm Service

011656–05902 (California) Coast-O-Fume W–85

Asgrow Florida Company

014775–06023 (Florida) Asgrow EDB–C 15 Soil Fumigant

Platte Chemical Company

034704–03848 (California) Clean Crop EDB–85

The person filing the claim should find the product for which he is claiming indemnification on the list, and indicate on the claim form described in Unit II. C. the category of product for which he is filing the claim.

C. What Information Must Be Submitted

1. *Claim form and supporting documentation.* EPA is providing an Indemnification and Disposal Claim Form that must be filled out and submitted to the address listed earlier in order for any claim to be considered.

It is the responsibility of the person submitting the claim to submit the required documentation to support the claim. The instructions accompanying the claim form indicate what type of supporting documentation would be accepted for each element of the claim. For example, all individuals filing claims must submit evidence of the cost to the claimant in either producing or acquiring the product. The cost is limited to the direct cost of the product, and does not include such incidental items as

transport or storage costs. For registrants/manufacturers holding inventories of a product that could not be sold, production records showing cost of production will be acceptable. Distributors, wholesalers, retailers, and users should submit purchase invoices, purchase receipts or affidavits. Evidence of the product's location and whether disposal or reprocessing has occurred is also required, and can include invoices, waste manifests, photographs, and affidavits.

The claim form provides for requests for disposal of product, whether or not indemnification is requested. All information requested on the form regarding quantity, unit number and size, and other facts pertinent to disposing of excess product should be submitted.

Any person submitting a claim as attorney, authorized agent, or legal representative must submit evidence which establishes his authority to file the claim and receive payment in satisfaction of the claim on behalf of the owner of the product. A person submitting a claim as an assignee must submit evidence of assignment of the claim.

Copies of the claim form can be obtained from EPA Regional Offices for which the addresses and telephone numbers follow.

Regional Office Contact Person for EDB Indemnification and Disposal Information/Claim Forms

1. Harold Kazmaier, U.S. Environmental Protection Agency, Region I, John F. Kennedy Building, Inside Room Delivery (Rm. 2211), Boston, MA 02203, (617–223–0585)
2. Stanley Fenichel, U.S. Environmental Protection Agency, Region II, Woodbridge Avenue, Edison, NJ 08837 (201–321–6769)
3. John Smith, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106 (215–597–9870)
4. Roy Clark, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, GA 30308 (404–881–3621)
5. George Marsh, U.S. Environmental Protection Agency, Region V, 230 Dearborn Street, Chicago, IL 60604 (312–353–2192)
6. Robert Murphy, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, TX 75270 (214–767–2734)
7. Judy Sturgess, U.S. Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, MO 64106 (816–374–3036)
8. Mike Bergin, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, CO 80203, (303–844–6281)
9. Catherine Papalia, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415–974–7840)
10. John Heller, U.S. Governmental Protection Agency, Region X, 1200 6th Avenue, Seattle WA 98101, (206–442–1981)

2. *Business records verification.* Manufacturers, registrants, distributors and any other claimants that normally maintain business records are permitted to consolidate the supporting information required to accompany the claim form and to verify the contents of the claim by submitting an auditor's report, or a schedule supported by an independent certified accountant's statement verifying the validity of the schedule. Each element of the claim, such as cost per unit of product or quantity of product owned at the time of suspension, must be reviewed and verified by the independent auditor if verification for the complete contents of the claim is being provided through the report or statement. If the independent review is being conducted for only one element of the claim, such as a manufacturer's cost of production per unit of product, supporting documentation must be submitted for all other elements of the claim. EPA retains the right to request submission of the information that formed the basis for the audits or reports in order to verify the validity of the information submitted.

3. *Composite claim lists.* Registrants or suppliers who have recalled a product for their customers and who are assignees or are acting as legal representative may submit composite lists for separate elements of the claim form identifying the product, product owner, quantities and units of pesticides and other pertinent information indicated on the claim form. Documentation of the assignment, power of attorney, or other legal authorization from each original owner of the product listed in such composite list must be submitted. The legal documentation should identify the parties and product involved. For power of attorney or any legal authorization which represents continued ownership of the pesticide by persons other than the individual completing the claim form, proof of each element of the claim must be submitted on behalf of the owner. For example, if a registrant has recalled material and is filing the claim by power of attorney for the owner, the registrant must submit verification of ownership at the time of suspension, the quantity of product returned to the registrant by the owner and the cost of the product to the owner. If, on the other hand, the registrant is filing the claim under assignment, the registrant should provide the information and verification required by the claims form, including the cost of repurchase of the product.

4. *Confidential business information.* As a general matter, businesses may assert claims of business confidentiality covering part or all of the information submitted through the Claim Form, in the manner described at 40 CFR 2.203(b). Any such assertions of confidentiality of business information must be supported by documentation of the reasons why disclosure of the information is likely to cause substantial harm to the business' competitive position. The information covered by the assertion will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. If no such assertion and supporting documentation accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the business. See 40 CFR 2.203(a)(2).

EPA has determined that it will not afford confidential treatment to certain information requested on the claim form, because it must be disclosed to potential contractors in order to arrange for disposal of the EDB pesticides. Confidentiality claims should not be applied to the following: the type and quantity of pesticide product, the unit size of containers, and the product's location. If the Agency receives any confidentiality claims for this information, the claim for indemnification and disposal will not be considered and will be returned to the claimant.

5. *EPA investigations.* The Agency plans to conduct random investigations of claims submitted for the purpose of establishing their veracity. In verifying claims, the Agency may seek to enter premises to examine any EDB pesticide products being stored pending disposal, to examine records relevant to the claim, or to conduct whatever other examinations are necessary to audit the claim.

6. *Signing claim required.* All claimants, or their authorized representatives, must sign the claim form. Signature of the form constitutes agreement to the following:

a. That all statements made and information provided in the claim are true and correct to the best of the claimant's knowledge, and that the amount of the claim is an accurate statement of the cost of the product.

b. That the claimant had no knowledge of facts which, in

themselves, showed that the EDB pesticide did not meet Federal registration requirements.

c. That acceptance of any payment by EPA constitutes full satisfaction and final settlement of the claim.

d. That by submission of the claim, the claimant grants permission to authorized agents of the United States Government to enter premises where records or product are retained to conduct whatever inspections, audits, or examinations are necessary to verify the contents of the claim.

e. That by submission of the claim, the claimant waives any claim for confidential treatment of certain types of information.

D. Where and When Claim Must Be Filed

All claims must be submitted to the address listed at the beginning of this notice, and must be postmarked March 20, 1985. All claims postmarked after that date will be denied.

EPA is imposing this time limitation on filing of claims because the information provided through the claim forms will enable the Agency to estimate the funds required for disposal and indemnification of the EDB products. Until the Agency is able to estimate with some certainty the total cost required for each activity, it cannot pursue obtaining the necessary funds for indemnification or disposal. Although the time limitation is fairly short, the Agency believes that it is reasonable in view of the need to begin disposal activities as soon as possible.

If a claim is filed within the prescribed time period, but the Agency requests supporting documentation not included with the original claim, an appropriate period will be allowed for submission of the additional information required for consideration of the claim. If the requested information is not submitted within the grace period provided, and a response is not received indicating why the information cannot be submitted within that period, the claim will be denied.

A claim may be amended at any time before final action by EPA. All amendments must be submitted in writing and signed by the claimant or his authorized agent or legal representative.

E. How Claims Will Be Processed

Upon receipt of a claim, EPA will assign it a claim number and all correspondence regarding the claim will reference that number. For those claims that have already been submitted to EPA, a claim number will be assigned without the need for resubmission of the claim. All claimants will be notified of receipt of the claim, and if necessary, of any additional information or verification required for consideration of the claim. If a claimant is unable to provide the documentation required for consideration of his claim within the prescribed time period, the claim will be disallowed and will be returned to him. EPA plans to conduct random audits of claims submitted, and may reject claims if investigators are not permitted to enter the claimant's premises or are otherwise impeded in conducting an audit.

EPA's determinations regarding eligibility of claims and amount of indemnity payable shall be administratively final.

III. Interim Storage and Disposal of Pesticide Stocks

Section 19(a) of FIFRA requires the Administrator to accept at convenient locations for safe disposal those pesticides the registrations of which have been suspended and cancelled as specified in section 6(c) of FIFRA. However, before the owner of a pesticide requests acceptance by the Administrator for disposal, he must make every reasonable effort to return the material to the manufacturer, distributor, or other agents capable of relabeling, recovering, recycling or reprocessing the material. See, 40 CFR 165.4.

On February 3, 1984, the Administrator issued an open letter to users of EDB for fumigation of grain and grain milling equipment, encouraging them to return stocks to their suppliers. The letter also stated that if the stocks could not be returned, they should be stored in a safe location pending further instructions about their final disposition.

EPA continues to encourage registrants and suppliers to take back suspended or cancelled EDB products from their customers. A number of registrants have already recalled and/or reprocessed EDB stocks that were returned to them. EPA encourages all registrants and manufacturers that are capable of recalling or reprocessing their EDB pesticide products to do so, as this will not affect any indemnification rights they otherwise have.

Once a pesticide is cancelled and suspended and can no longer be used as a pesticide, it must either be recycled for some other use or disposed of in accordance with RCRA or other applicable State and Federal regulations. To the extent that registrants, sellers, or individuals are currently holding unused EDB pesticide stocks, certain storage practices must be followed. In particular, if the unused EDB pesticide stock is being accumulated for recycling, the registrant, seller, or individual holding the product should store the material in accordance with recommended procedures for storage described at 40 CFR 165.10. These procedures for storlage recommend that the material be stored on pallets or similar raised platforms in a dry, well ventilated and separate room, building or covered area with a concrete floor. Movement or handling should be kept to an absolute minimum. If badly corroded or leaking containers are found, however, the contents should be placed in a suitable container and properly relabeled, or the entire container may be transferred to a sound, larger container that is properly labeled. Further technical advice may be obtained from the EPA Regional office contacts listed in Unit II.C.2.

If, however, the person is accumulating the unused product for disposal, he must comply with the requirements under Subtitle C of the Resource Conservation and Recovery Act as specified in regulations at 40 CFR Parts 261 through 265, 124, and 270.[1] Persons accumulating EDB in less than the quantities specified in these regulations may be excluded from RCRA regulations, or be subject only to some of the RCRA requirements, under the small quantity generated exemption. See, 40 CFR 261.5. For persons interested in disposing of their excess stocks of EDB pesticides, the Agency has identified a number of professional waste disposal firms. A list of these firms is available from EPA Regional offices, for which addresses are listed in Unit II.C.2. It should also be noted that the Agency is in the process of obtaining contractor services to dispose of EDB products, and will announce the disposal operation as soon as possible. At this time, the Agency anticipates that disposal operations will begin sometime in mid-1985.

One final point needs clarification. Under the hazardous waste rules, farmers holding empty containers with EDB residues are exempt from regulation, provided they triple rinse each container in accordance with 40 CFR 261.7(b)(3) and dispose of the pesticide residues on their own farm in a manner consistent with the disposal

[1] Under the existing hazardous waste rules, unused EDB product is regulated when discarded in commercial grade, technical grade, or off-specification form or when present as the sole active ingredient in a formulation. Discarded formulations containing EDB as one of a number of ingredients are not presently considered to be hazardous wastes (unless they exhibit a characteristic of hazardous waste).

instructions on the pesticide label. See, 40 CFR 261.51. This exemption does not apply, however, to full containers of EDB pesticides (though the small quantity generator exemption may apply).

(7 U.S.C. 136 m and q)

Dated: December 11, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33117 Filed 12-20-84; 8:45 am]

BILLING CODE 6560-50-M

federal register

Friday
December 20, 1984

Part V

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order, 6–84, 49 FR 32473 (1989). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Government Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

New York: NY84–3050.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama: AL894–1032	Nov. 16, 1984.
Colorado:	
CO82–5127	Nov. 5, 1982.
CO83–5109	Apr. 8, 1983.
CO83–5113	July 15, 1983.
Florida:	
FL83–1016	Apr. 1, 1983.
FL81–1256	June 26, 1981.
Illinois: IL83–2037	Apr. 29, 1983.
Massachusetts: MA84–3008	Mar. 30, 1984.
New York:	
NY81–3034	June 5, 1981.
NY81–3039	Apr. 4, 1981.
Pennsylvania:	
PA79–3020	July 20, 1979.
PA84–3041	Nov. 9, 1984.
PA84–3002	Feb. 10, 1984.
Rhode Island: RI84–3043	Nov. 30, 1984.
Texas: TX84–4104	Nov. 30, 1984.
Virginia: VA82–3033	Dec. 3, 1982.
Washington: WA84–5040	Nov. 16, 1984.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Iowa: IA84–4011 (IA84–4109)	Feb. 24, 1984.
Michigan: MI82–2042 (MI84–5026)	July 9, 1982.
Missouri:	
MO84–4017 (MO84–4108)	Mar. 16, 1984.
MO84–4016 (MO84–4110)	Mar. 16, 1984.
Pennsylvania: PA83–3047 (PA84–3049)	Oct. 14, 1983.
Wisconsin: WI83–2074 (WI84–5026)	Sept. 23, 1983.

Signed at Washington, D.C., this 14th day of December 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510–27–M

DECISION NO. AL84-1032
Mod # 1
(49 FR 45531 - November 16, 1984)
JEFFERSON, SHELBY & ST. CLAIR COUNTIES, ALABAMA

CHANGE IN HEADING:
Supersedes Decision No.: AL83-1085 dated November 25, 1983 in 48 FR 53252.

	Basic Hourly Rates	Fringe Benefits

DECISION NO. CO82-5127-MOD #7
(47 FR 50418 - November 5, 1982)
Las Animas, Otero and Pueblo Counties, Colorado

Change:

	Basic Hourly Rates	Fringe Benefits
Sheet Metal Workers	$16.03	3.68+3%
Ironworkers	15.50	3.53
Millwrights	16.15	2.70

DECISION NO. FL83-1016-
MOD. #8
(48 FR 14307-April 1,1983)
Dade County, Florida
Building Construction

CHANGE:

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
GROUP A	$16.75	1.25
GROUP B	15.58	1.25
GROUP C	14.46	1.25
GROUP D	13.29	1.25
GROUP E	12.06	1.25

DECISION NO. FL81-1256-
MOD. #2
(46 FR 33180-June 26,1981)
Dade County, Florida
Heavy Construction

CHANGE:

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
GROUP A	$15.19	1.25
GROUP B	13.65	1.25
GROUP C	13.56	1.25
GROUP D	12.61	1.25
GROUP E	11.94	1.25

DECISION NO. MA84-3008
MOD. NO. 3
(49 FR 12889 -March 30, 1984)
Worcester County, Massachusetts

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
AREA 2	$16.40	4.30+ 3%

DECISION NO. NY81-3034 -
MOD. #8
(46 FR 30271 - June 5, 1981)
Oneida County, New York

OMIT:

Building Construction from description of work

DECISION NO. NY81-3039
MOD # 11
(45 FR 23265 - April 4, 1981)
MONROE COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & PILEDRIVERMEN (Heavy and Highway)		
Carpenters	12.71	4.435 +a
Piledrivermen	12.74	4.405 +a

DECISION NO. CO83-5109 -
MOD. #7
(48 FR 15404 - April 8, 1983)
Statewide Colorado

OMIT:

Carpenters as originally issued.

ADD:

	Basic Hourly Rates	Fringe Benefits
Carpenters	$12.50	3.25

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Cement Masons	$12.04	2.79
Ironworkers:		
Structural, Ornamental and Reinforcing	15.50	3.53

Power Equipment Operators see attached.

Truck Drivers see attached.

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts, and Raises):	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2
Group 1	$11.26	$11.93
Group 2	11.61	12.28
Group 3	11.96	12.63
Group 4	12.11	12.78
Group 5	12.26	12.93
Group 6	12.41	13.08
(For work in Tunnels, Shafts, and Raises):		
Group 1	13.41	14.08
Group 2	13.76	14.43
Group 3	13.86	14.53
Group 4	14.11	14.78
Group 5	14.26	15.33
Group 6	14.66	15.33
Group 7	14.41	15.08

FRINGE BENEFITS:
$3.70

Decision No. CO83-5109

TRUCK DRIVERS ZONE DEFINITIONS

COUNTIES WITHIN ZONE 1:

Alamosa, Archuleta, Baca, Bent, Cheyenne, Conejos, Costilla, Crowley, Dolores, Eagle, Grand, Gunnison, Hinsdale, Jackson, Kiowa, Kit Carson, Lake, LaPlata, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grand, Routt, Saguache, San Juan, San Miguel, Sedgewick, Summit, Yuma, Washington

COUNTIES WITHIN ZONE 2:

Adams, Arapahoe, Boulder, Chaffee, Clear Creek, Custer, Delta, Denver, Douglas, Elbert, El Paso, Fremont, Garfield, Gilpin, Huerfano, Jefferson, Larimer, Las Animas, Mesa, Pueblo, Teller and Weld.

Decision No. CO83-5109	Basic Hourly Rates	Basic Hourly Rates
	ZONE 1	ZONE 2
TRUCK DRIVERS:		
Group 1	12.91	11.65
Group 2	13.01	11.78
Group 3	13.11	11.91
Group 4	13.21	12.03
Group 5	14.81	11.98
Group 6	14.86	12.03
Group 7	14.91	12.10
Group 8	14.96	12.22
Group 9	15.01	12.15
Group 10	15.06	12.22
Group 11	15.16	12.35
Group 12	15.21	12.41
Group 13	15.31	12.53
Group 14	15.46	12.73
Group 15	15.51	12.78
Group 16	15.61	12.90
Group 17	15.71	13.28
Group 18	15.81	13.16
Group 19	15.91	13.28
Group 20	16.11	13.54
FRINGE BENEFITS: $2.94		

Decision NO. CO83-5109

TRUCK DRIVERS

Group 1: Pick Up, Truck Driver Tenders, Dumpmen, Washers, Greasemen

Group 2: Dump truck driver to including 6 cubic yard, sweeper truck, Flat rack single axle, and manhaul, shuttle truck or bus Liquid and bulk tankers - single axle

Group 3: Flat rack tandem axle Battery men, mechanics tenders

Group 4: Fork lift driver

Group 5: Dump truck driver over 6 cubic yards, to and including 14 cubic yards

Group 6: Straddle truck driver, lumber carrier, Liquid and bulk tankers-tandem axle

Group 7: Truck drivers-fuel truck, grease truck, combination fuel and grease

Group 8: Cement mixer - agitator truck to and including 10 cubic yards, Distributor truck driver Liquid and bulk tankers - semi or combination

Group 9: Multi purpose truck-specialty and hoisting

Group 10: Dump truck driver over 14 cubic yards, to and including 29 cubic yards Highboy, lowboy, floats, semi Cab operated distributor truck driver - semi Liquid and bulk tankers - Euclid - Electric or similar Truck Driver dumptor type, Youngbuggy, Jumbo and similar type equipment

Group 11: Truck driver, snow plow

Group 12: Cement mixer - agitator truck over 10 cubic yards, to and including 15 cubic yards

Group 13: Dump truck driver over 29 cubic yards, to and including 39 cubic yards

Group 14: Cement mixer - agitator truck over 15 cubic yards

Group 15: Tire man Dump truck driver over 39 cubic yards, to and including 54 cubic yards

Group 16: Mechanic

Group 17: Dump truck driver over 54 cubic yards, to and including 79 cubic yards

Decision NO. C083-5109

Group 18: Heavy duty diesel mechanic, body men, welders or combination men

Group 19: Dump truck driver over 79 cubic yards, to and including 104 cubic yards

Group 20: Dump truck driver over 104 cubic yards

DECISION NO. C083-5113-MOD. #9 (48-FR-32451 July 15, 1983)	Basic Hourly Rates	Fringe Benefits
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado		
OMIT:		
Laborers Zone Descriptions, Rates and Classifications as originally issued.		
Truck Drivers Zone Description, Rates, and Classifications as originally issued.		
ADD:		
Laborers Zone Descriptions, Wage Rates, and Classifications attached.		
Truck Drivers Zone Descriptions, Wage Rates and Classifications attached.		
CHANGE:		
Ironworkers: Structural, Ornamental and Reinforcing	$15.50	3.53

TRUCK DRIVERS:	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2
Group 1	$12.91	$11.65
Group 2	13.01	11.78
Group 3	13.11	11.91
Group 4	13.21	12.03
Group 5	14.81	11.91
Group 6	14.86	11.98
Group 7	14.91	11.91
Group 8	14.96	12.16
Group 9	15.01	12.15
Group 10	15.06	12.22
Group 11	15.16	12.30
Group 12	15.21	12.41
Group 13	15.31	12.53
Group 14	15.46	12.73
Group 15	15.51	12.78
Group 16	15.61	12.90
Group 17	15.71	13.28
Group 18	15.81	13.16
Group 19	15.91	13.28
Group 20	16.11	13.54
FRINGE BENEFITS: $2.94		

LABORERS ZONE 1

DECISION NO. CO83-5113

Adams, Arapahoe, Boulder, Denver and Jefferson Counties.

Group I
Laborers

Group II

Mechanical, Air, Gas and Electric Power Tool Operator, Burners on Demolition, Gunnite Nozzlemen and Sand Blasters

LABORERS ZONE 11

Clear Creek, Douglas, Eagle, Elbert, Gilpin, Grand, Lake, Larimer, Morgan, Park, Summit and Weld Counties.

Group 1
Laborers

Group 11

Mechanical, Air, Gas and Electric Power Tool Operator, Burners on Demolition, Gunnite Nozzlemen and Sand Blasters

LABORERS

	BASIC HOURLY RATE
ZONE 1:	
Group 1	$8.65
Group 11	8.90
ZONE 11:	
Group 1	7.65
Group 11	8.00

FRINGE BENEFITS:
$3.04

TRUCK DRIVERS ZONE DEFINITIONS

COUNTIES WITHIN ZONE 1:

Eagle, Grand, Lake, Morgan, Park, and Summit

COUNTIES WITHIN ZONE 2:
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Larimer and Weld.

Decision NO. CO83-5113

TRUCK DRIVERS

Group 1: Pick Up, Truck Driver Tenders, Dumpmen, Washers, Greasemen

Group 2: Dump truck driver to including 6 cubic yard, sweeper truck, Flat rack single axle, and manhaul, shuttle truck or bus Liquid and bulk tankers - single axle

Group 3: Flat rack tandem axle
Battery men, mechanics tenders

Group 4: Fork lift driver

Group 5: Dump truck driver over 6 cubic yards, to and including 14 cubic yards

Group 6: Straddle truck driver, lumber carrier, Liquid and bulk tankers-tandem axle

Group 7: Truck drivers-fuel truck, grease truck, combination fuel and grease

Group 8: Cement mixer - agitator truck to and including 10 cubic yards, Distributor truck driver
Liquid and bulk tankers - semi or combination

Group 9: Multi purpose truck-specialty and hoisting

Group 10: Dump truck driver over 14 cubic yards, to and including 29 cubic yards
Highboy, lowboy, floats, semi
Cab operated distributor truck driver - semi
Liquid and bulk tankers - Euclid - Electric or similar
Truck Driver dumptor type, Youngbuggy, Jumbo and similar type equipment

Group 11: Truck driver, snow plow

Group 12: Cement mixer - agitator truck over 10 cubic yards, to and including 15 cubic yards

Group 13: Dump truck driver over 29 cubic yards, to and including 39 cubic yards

Group 14: Cement mixer - agitator truck over 15 cubic yards

Group 15: Tire man
Dump truck driver over 39 cubic yards, to and including 54 cubic yards

Group 16: Mechanic

Group 17: Dump truck driver over 54 cubic yards, to and including 79 cubic yards

Decision NO. CO83-.5113

Group 18: Heavy duty diesel mechanic, body men, welders or combination men

Group 19: Dump truck driver over 79 cubic yards, to and including 104 cubic yards

Group 20: Dump truck driver over 104 cubic yards

DECISION NO. IL83-2037-MOD#3
48 FR 19583 - April 29, 1983)
Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin

Change:
FLOATING EQUIPMENT (CLAM SHELL DRAGLINE & MARINE CONSTRUCTION Projects less than $250,000:

	Basic Hourly Rates	Fringe Benefits
Illinois (Cook, Du Page, Lake, and Will Counties)		
Indiana (Lake, La Porte, and Porter Counties):		
Engineer & Operator	21.05	5.15+g
Equipment Operator	18.75	5.15+g
Fireman	17.70	5.15+g
Oiler	15.60	5.15+g
Michigan:		
Engineer & Operator	15.20	5.86+g
Equipment Operator	13.55	5.86+g
Fireman	12.80	5.86+g
Oiler	11.25	5.86+g
Minnesota:		
Engineer & Operator	18.60	2.60+g
Equipment Operator	16.60	2.60+g
Fireman	15.65	2.60+g
Oiler	14.80	2.60+g
New York:		
(Cattaraugus, Chautauqua, Erie and Orleans Counties):		
Engineer & Operator	18.20	4.45+g
Equipment Operator	16.20	4.45+g
Fireman	15.30	4.45+g
Oiler	11.85	4.45+g
(Cayuga, Jefferson, Oswego, and St. Lawrence Counties):		
Engineer & Operator	18.25	3.50+g
Equipment Operator	16.25	3.50+g
Fireman	15.35	3.50+g
Oiler	13.55	3.50+g
(Niagara County):		
Engineer & Operator	20.10	4.25+g
Equipment Operator	17.90	4.25+g
Fireman	16.90	4.25+g
Oiler	14.90	4.25+g
(Monroe and Wayne Counties and City of Rochester):		
Engineer & Operator	18.20	3.50+g
Equipment Operator	16.20	3.50+g
Fireman	15.30	3.50+g
Oiler	13.50	3.50+g
Ohio (Ashtabula, Cuyahoga, Erie, Henry, Lake, Lorain, Lucas, Ottawa, Sandusky, and Wood Counties)		
Engineer & Operator	20.30	3.41+g
Equipment Operator	18.10	3.41+g
Fireman	17.10	3.41+g
Oiler	15.05	3.41+g
Pennsylvania (Erie County):		
Engineer & Operator	18.45	3.43+g
Equipment Operator	16.45	3.43+g
Fireman	15.50	3.43+g
Oiler	13.70	3.43+g
Wisconsin:		
Engineer & Operator	18.00	3.35+g
Equipment Operator	16.05	3.35+g
Fireman	15.15	3.35+g
Oiler	13.35	3.35+g
Projects $250,000 or more:		
All Areas:		
Engineer & Operator	21.05	i
Equipment Operator	18.75	i
Fireman	17.70	i
Oiler	15.60	i

FOOTNOTES:
i. Fringe benefits are the same as for each area as defined for projects less than $250,000

DELETE:
Footnotes e and f

MODIFICATIONS P. 11

DECISION NO. PA79-3020 - MOD. NO. 16	Basic Hourly Rates	Fringe Benefits
(44 FR 42880 - July 20, 1979)		
Carbon, Monroe County, Including Tobyhanna Army Depot, and Pike County, Pennsylvania		
CHANGE:		
ASBESTOS WORKERS	16.33	2,66
CARPENTERS		
Zone 1	14.50	2.55
BRICKLAYERS & STONEMASONS		
Zone 2	15.70	2.00
ELECTRICIANS:		
Monroe County: Barrett, Coolbaugh, Pardise and Price Townships, and that portion of Tobyhannock Townships east of State Highway 115.		
Zone A- From 0 to 50 miles from Zero milestone marker	15.25	4.30+ 3%
Zone B- All distance over 50 miles	16.00	4.30+ 3%
Carbon County: Penn Forest, Lehigh, Lausane, Banks, Packer, Mauch Chunk, Franklin, Mahoning Townships and East Side Borough in their entirety and that portion of Kidder Township south of State Highway 940, but excluding Perryville Borough	15.93	2.50+ 3%+a
GLAZIERS		
Zone 2	13.04	2.90
Elevator Constructors	15.585	3.29+ c+d
Elevator Constructors Helpers	10.91	3.29+ c+d
Elevator Constructord Helpers (prob.)	7.79	
LABORERS:		
Zone 1		
Class 1	12.80	2.87
Class 2	12.95	2.87
Class 3	13.20	2.87
LATHERS		
Zone 2	14.50	2.55
MILLWRIGHTS		
Zone 3	16.57	2.55
PAINTERS		
Zone 1		
Brush	12.30	2.70
Tapers	12.96	2.70
Structural Steel	13.96	2.70
Zone 2		
Brush & Roller	13.65	1.45
Structural Steel	14.65	1.45
Spray	15.15	1.45
PILEDRIVERMEN	15.97	6.81+g
SOFT FLOOR LAYERS		
Zone 1	12.29	2.55
ROOFERS:		
ZONE 1		
Shingle, Slate and Tile Mechanic II (for shingle, slate, or tile work) - handles and transports all materials, tools and equipment; clean-up bebris	13.92	2.25
	6.25	2.25

DECISION NO. PA84-3041 MOD. NO. 1	Basic Hourly Rates	Fringe Benefits
(49 FR 44855 - November 9, 1984)		
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania		
CHANGE:		
ELECTRICIANS		
COMMERCIAL		
ZONE 5	17.38	1.89+ 3%

MODIFICATIONS P. 12

DECISION NO. PA84-3002 MOD. NO. 6	Basic Hourly Rates	Fringe Benefits
(49 FR 5295 - February 10, 1984)		
Adams & York Counties, Pennsylvania		
CHANGE:		
BRICKLAYERS & STONEMASONS	13.00	1.20
CARPENTERS & SOFT FLOOR LAYERS:		
York County	14.65	1.88
LABORERS:		
General Laborers	10.40	1.72
Operator of Jackhammet (etc.)	10.60	1.72
Wagon drill operator	10.70	1.72
Handling of all materials (etc.)	10.65	1.72
Laborers assisting tile (etc.)	10.45	1.72
Handling & using dynamite	10.73	1.72
Caisson work (top men)	10.65	1.72
Caisson work (Bottom men)	10.85	1.72
Mixer man	10.80	1.72
MARBLE, TILE & TERRAZZO WORKERS	12.95	1.20
MILLWRIGHTS		
York County	15.15	1.88
PILEDRIVERMEN	15.97	6.81+c
PLUMBERS	17.45	2.97
SOFT FLOOR LAYERS		
Adams County	12.29	2.55

DECISION NO. RI84-3043 - MOD. 2	Basic Hourly Rates	Fringe Benefits
(49 FR 47171 - November 30, 1984)		
STATEWIDE, RHODE ISLAND		
CHANGE:		
STEAMFITTERS	16.83	5.00

DECISION NO. VA82-3033- MOD. #8	Basic Hourly Rates	Fringe Benefits
(47 FR 54744-December 3, 1982)		
HENRICO COUNTY & THE INDEPENDENT CITY OF RICHMOND		
CHANGE:		
STONEMASONS	$12.00	1.45
SOFT FLOOR LAYERS	12.05	1.70

DECISION NO. WA84-5040 - Mod#3	Basic Hourly Rates	Fringe Benefits
(49 FR 45532 - Nov. 16, 1984)		
Statewide Washington		
OMIT:		
Truck Drivers (Area 1):		
Group 2:		
Omit pickup hauling material from group description (p.29)		

MODIFICATIONS P. 13

DECISION NO. TX84-4104 - MOD. #1 (49 FR 47164 - 11/30/84) Statewide Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Mechanics:		
Zone 14	$ 8.50	
Servicer:		
Zone 4	5.85	
Zone 5	5.80	
Blaster:		
Zone 3	6.60	
Reinforcing Steel Setter (Paving):		
Zone 4	5.85	
Reinforcing Steel Setter (Structures):		
Zone 2	6.40	
Reinforcing Steel Setter Helper:		
Zone 6	5.20	
Zone 12	5.10	
Sign Erector:		
Zone 9	5.00	
Spreader Box Man:		
Zone 8	6.75	
Power Equipment Ops.:		
Asphalt Paving Machine:		
Zone 1	7.40	
Bulldozer over 150 HP:		
Zone 1	7.45	
Zone 7	7.00	
Zone 12	7.35	
Bulldozer 150 HP & Less:		
Zone 1	6.85	
Zone 7	6.50	
Front End Loaders (over 2½ CY):		
Zone 1	7.60	
Zone 2	7.55	
Zone 3	7.00	
Zone 4	6.40	
Zone 5	6.70	
Front End Loaders (2½ CY & Less):		
Zone 13	6.50	
Scrapers(Over 17 CY):		
Zone 1	7.20	
Zone 2	7.30	
Zone 3	6.60	
Zone 4	6.50	
Zone 5	6.25	
Zone 9	6.65	
Tractor(Crawler Type) over 150 HP:		
Zone 4	7.50	

DECISION NO. TX84-4104 - MOD. #1 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Truck Drivers:		
Single Axle, Light:		
Zone 10	$ 5.50	
Welder Helper:		
Zone 5	5.60	
OMIT:		
Pneumatic Mortar Op.:		
Zone 3	6.60	
Blaster:		
Zone 4	5.85	
Steel Worker Helper (Structural):		
Zone 6	5.20	
Power Equipment Ops.:		
Tractor(Crawler Type) 150 HP & Less:		
Zone 4	7.50	

SUPERSEDEAS DECISION

STATE: IOWA
DECISION NO.: IA84-4109

COUNTY: SCOTT
DATE: Date of Publication

Supersedes Decision No. IA84-4011, dated February 24, 1984 in 49 FR 7068.
DECSRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.86	$ 2.40
BOILERMAKERS	17.345	3.00
BRICKLAYERS & STONEMASONS	15.11	2.97
CARPENTERS:		
The frame construction or repair of nursing & retirement homes & apts. over 4 stories:		
The city of Davenport	9.10	1.43
Remainder of County	6.10	1.43
All other work:		
Carpenters	14.91	3.08
Millwrights	16.28	3.57
Piledrivermen	15.41	3.08
CEMENT MASONS	15.11	2.02
ELECTRICIANS:		
Electricians	16.34	1.66 + 8%
Cable Splicers	17.34	1.66 + 8%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.295	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.50	2.27
IRONWORKERS	16.45	3.085
LABORERS:		
GROUP 1-Carpenter tender, common laborers, mason tenders	13.18	2.70
GROUP 2-Concrete saw, pipesetters, plumber laborer, power tools (barco-vibrator-mortar mixers-dynamite handlers-burner on dismantling work to be junked), prime movers, sand points	13.43	2.70
GROUP 3-Caissons after 6 ft. depth, dynamite men, tunnel miners	13.68	2.70
MARBLE, TILE, & TERRAZZO WORKERS	14.10	2.75
PLASTERERS	17.00	
PLUMBERS & STEAMFITTERS	16.60	2.85

	Basic Hourly Rates	Fringe Benefits
PAINTERS:	$ 14.47	$3.49
Brush, roller	14.97	3.49
Spray, Structural Steel	14.97	3.49
Drywall, tapers		
POWER EQUIPMENT OPERS.:		
GROUP 1	15.25	2.98
GROUP 2	13.85	2.98
GROUP 3	12.80	2.98
ROOFERS	14.40	2.86
SHEET METAL WORKERS	13.77	3.08 + 3%
SOFT FLOOR LAYERS	14.91	3.08
SOUND INSTALLERS:		
Installation, operation, inspection, maintenance, repair, & service of radio, television, recording, voice, sound & vision production & reproduction apparatus, equipment & appliances	11.75	3%+b
SPRINKLER FITTERS	16.47	3.23
WELDERS: receive rate prescribed for craft performing operation to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All hoists or steel erecting equipment Crane, shovel, clamshell, dragline, backhoe, derrick, tower crane, cableway, concrete spreader (servicing 2 pavers), asphalt spreader, asphalt mixer plant engineer, dipper operator & craneman, dual purpose truck (boom or winch); Leverman or engineman (hydraulic dredge), mechanic, paving mixer with tower attached (2 ops. required); Piledriver, boom tractor. Stationary, portable or floating mixing plant, trenching machine (over 40 HP), building hoist (2 drums), hot paint wrapping machine, cleaning & priming machine, backfiller (throw bucket), locomotive engineer, qualified welder; tow or push boat, concrete paver, seaman trav-l-plant or similar machine, CMI autograder or similar machine, slip form paver, caisson augering machine, mucking machine, asphalt heater-planer unit, hydraulic cranes, mine hoists; Athey, barber-green, euclid or haiss loader, asphalt pug mill, fireman & drier, concrete pump, concrete spreader (servicing 1 paver); Bulldozer, endloader, log chippers or similar machines, elevating grader, group equipment greaser, LeTourneaupull & similar machines, DW-10, hyster winch & similar machines, motor patrol, power blade, push cat, tractor pulling elevating grader or power blade, tractor operating scoop or scraper, tractor with power attachments, roller on asphalt or blacktop, single drum hoist, jaeger mix & plant machine, pipe bending machine, flexaplane or similar machine, automatic curbing machine, automatic cement & gravel batch plants (1 stop set-up), seaman pulvi-mixer or similar machine, blastholer, self-propelled rotary drill or similar machines, work boat, combination concrete finishing machine & float, self-propelled sheep foot roller or compactor (used in conjunction with a grading spread), asphalt spreader screed operator, apsco spreader or similar machine, slusher, forklift (over 6000 lbs. capacity or working at heights above 28 ft.), concrete conveyors

GROUP 2 - Asphalt booster, fireman & pump operator at asphalt plant, mud jack, underground boring machine, concrete finishing machine, form grader with roller on earth, mixers (3 bag to 16E), power operated bull float, tractor without power attachments, dope pot (agitating motor), dope chop machine, distributor (back end), straddle carrier, portable machine fireman, hydro-hammer, power winch on paving work; self-propelled roller or compactor (other than provided for above), pump operator (more than 1 well point pump), portable crusher operator, trench machine (under 40 HP), power sub-grader (on forms) or similar machines, forklift (6000 lbs. or less capacity), gypsum pump, conveyor over 20 HP, fuller-kenyon cement pump or similar machine; air compressor (275 CFM or over), driver on truck crane or similar machines, light plant, mixers (1 or 2 bag), power batching machine (cement auger or conveyor); boiler (engineer or fireman), water pumps, mechanical broom, automatic cement & gravel batch plants (2 or 3 stop set-up), small rubber-tired tractor (not including backhoes or endloaders), self-propelled curing machine

GROUP 3-Oiler, Mechanical heater (other than steam boiler), belt machine, small outboard motor boat, engine driven welding machine

FOOTNOTES:

a- Employer contributes 8% of basic hourly rate for over 5 years service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays-New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day.

b- Employer contributes 1 week vacation with pay after 12 months service; 2 weeks vacation with pay after 24 months service; and 3 weeks vacation with pay after 5 years of service.

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: Statewide
DECISION NO. MI84-5026 DATE: Date of Publication
Supersedes Decision No. MI82-2042, dated July 9, 1982, in 47 FR 29976.
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction Projects (Exclusive of Buildings) (does not include TV/Grout work)

	Basic Hourly Rates	Fringe Benefits
CARPENTERS:		
ZONE 1 MACOMB, MONROE, OAKLAND, ST. CLAIR & WAYNE COS.; LIVINGSTON CO. (Townships of Brighton, Deerfield, Genoa, Hartland, Osceola & Tyrone); SANILAC CO. (That part East of a line projected North & continuing to East Lapeer Co. & West St. Clair Co. lines and to South Huron County line	$16.03	$1.70 +22%
ZONE 2E ARENAC, BAY, CLARE, CLINTON, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, ISABELLA, IOSCO, JACKSON, LAPEER, LENAWEE, MIDLAND, OGEMAN, SAGINAW, SHIAWASSEE, TUSCOLA & WAHTENAW COS. LIVINGSTON & SANILAC COS. (Remainder of Cos.); EATON CO. (all but the Townships of Bellevue, Kakamo, Vermontville & Walton); IONIA CO. (Townships of Danby, Orange, Portland & Sebewa)	14.54	2.20
ZONE 2W ALLEGAN, BARRY, BRANCH, CALHOUN, CASS, HILLSDALE, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MECOSTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OTTAWA, ST. JOSEPH & VAN BUREN COUNTIES; EATON & IONIA COS. (Remainder of Cos.) BERRIEN CO. (All but the Townships of Chickaming, New Buffalo & Three Oaks); BENZIE CO. (Townships of Blaine, Colfax, Crystal Lake, Gilmore, Joyfield & Weldon)	14.42	2.20
ZONE 3LP ALCONA, ALPENA, ANTRIM, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, KALKASKA, LEELANAU, MISSAUKEE, MONTMORENCY, OSCEOLA, OSCODA, OSTEGO, PRESQUE ISLE, ROSCOMMON & WEXFORD COS.; BENZIE CO. (Remainder of Co.)	$14.31	$2.20
ZONE 3UP ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MONOMINEE, ONTONAGON & SCHOOLCRAFT COUNTIES	14.26	2.20
ZONE 4 BERRIEN COUNTY (Remainder of County	17.10	3.82
CEMENT MASONS:		
ZONE 1 GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW & WAYNE COUNTIES (Cement masonary related to Highway, Road & Street construction)	15.67	1.92
ZONE 2 REMAINDER OF STATE	15.02	1.92
PAINTERS:		
KENT, MONTCALM, MECOSTA COS.; IONIA CO. (Western ½ of Co.) Brush	12.00	1.07
Bridges over Highway and Railroads	12.25	1.07
Bridge work over Rivers and Lakes	12.50	1.07
Spray, Pressure Roller, Steam Cleaning, Sand or Water Blasting	12.75	1.07

	Basic Hourly Rates	Fringe Benefits
LABORERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION:		
	ZONE 1	
Class A	$13.60	2.64
Class B	13.34	2.64
Class B-1	13.17	2.64
Class B-2	12.94	2.64
Class C	13.09	2.64
Class D	12.94	2.64
Class E	12.85	2.64
Class F	12.82	2.64
Class G	12.82	2.64
Class H	9.82	2.64
	ZONE 2	
Class A	12.81	2.64
Class B	12.51	2.64
Class B-1	12.63	2.64
Class B-2	12.41	2.64
Class C	12.32	2.64
Class D	12.12	2.64
Class E	12.06	2.64
Class F	11.94	2.64
Class G	11.94	2.64
Class H	8.94	2.64
	ZONE 2A	
Class A	12.34	2.64
Class B	12.07	2.64
Class B-1	12.16	2.64
Class B-2	11.93	2.64
Class C	11.85	2.64
Class D	11.66	2.64
Class E	11.58	2.64
Class F	11.48	2.64
	ZONE 3	
Class A	12.20	2.64
Class B	11.83	2.64
Class B-1	12.17	2.64
Class B-2	11.96	2.64
Class C	11.77	2.64
Class D	11.52	2.64
Class E	11.40	2.64
Class F	11.34	2.64
	ZONE 3A	
Class A	12.02	2.64
Class B	11.65	2.64
Class B-1	11.99	2.64
Class B-2	11.77	2.64
Class C	11.58	2.64
Class D	11.34	2.64
Class E	11.21	2.64
Class F	11.15	2.64

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS: STRUCTURAL & REINFORCING:		
Zone 1 - Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties:		
Contracts $5 million or greater	14.93	4.67
Contracts less than $5 million	14.22	4.67
Zone 2 - Emmet, Charlevoix, Antrim, Leelanau, Benzie, Grand Traverse, Kalkaska, Mason, Mainstee, Wexford, Missaukee, Lake, Osceola, Oceana, Mecosta, Newaygo, Muskegon, Kent, Montcalm, Ottawa, Ionia, Barry, Allegan, Eaton, Van Buren, Kalamazoo, Calhoun, St. Joseph, Branch & Hillsdale Counties	15.12	2.91
Zone 3 - Berrien and Cass Counties	13.96	5.71
Zone 4 - Lenawee and Monroe Counties	18.68	3.84
Zone 5 - Remainder of State:		
Reinforcing	13.53	1.98+ 38.64%
Structural	15.26	0.09+ 47%

	Basic Hourly Rates	Fringe Benefits
LABORERS: OPEN CUT CONSTRUCTION:		
Contracts over $400,000:		
Zone 1:		
Class 1	$12.34	$4.14
Class 2	12.42	4.14
Class 3	12.47	4.14
Class 4	12.53	4.14
Class 5	12.58	4.14
Zone 2:		
Class 1	12.03	2.54
Class 2	12.12	2.54
Class 3	12.17	2.54
Class 4	12.22	2.54
Class 5	12.27	2.54
Zone 3:		
Class 1	12.07	2.54
Class 2	12.17	2.54
Class 3	12.27	2.54
Class 4	12.32	2.54
Class 5	12.43	2.54
Zone 4:		
Class 1	11.66	2.54
Class 2	11.77	2.54
Class 3	11.87	2.54
Class 4	11.92	2.54
Class 5	12.02	2.54
Zone 5:		
Class 1	12.07	2.54
Class 2	12.17	2.54
Class 3	12.27	2.54
Class 4	12.32	2.54
Class 5	12.43	2.54
Zone 6:		
Class 1	11.62	2.99
Class 2	11.72	2.99
Class 3	11.82	2.99
Class 4	11.87	2.99
Class 5	11.98	2.99
Zone 7:		
Class 1	11.98	2.54
Class 2	12.09	2.54
Class 3	12.19	2.54
Class 4	12.24	2.54
Class 5	12.32	2.54
Zone 8:		
Class 1	10.75	2.54
Class 2	10.85	2.54
Class 3	10.95	2.54
Class 4	11.00	2.54
Class 5	11.11	2.54

	Basic Hourly Rates	Fringe Benefits
LABORERS: OPEN CUT CONSTRUCTION (Cont'd):		
Contracts over $400,000 (Cont'd):		
Zone 9:		
Class 1	$ 9.91	$2.54
Class 2	10.02	2.54
Class 3	10.12	2.54
Class 4	10.17	2.54
Class 5	10.27	2.54
Zone 10:		
Class 1	9.55	2.54
Class 2	9.66	2.54
Class 3	9.76	2.54
Class 4	9.81	2.54
Class 5	9.91	2.54
Zone 11:		
Class 1	10.88	2.54
Class 2	10.98	2.54
Class 3	11.09	2.54
Class 4	11.14	2.54
Class 5	11.19	2.54
Contracts $400,000 or less:		
Zone 1:		
Class 1	11.09	4.14
Class 2	11.17	4.14
Class 3	11.22	4.14
Class 4	11.28	4.14
Class 5	11.33	4.14
Zone 2:		
Class 1	10.28	2.54
Class 2	10.37	2.54
Class 3	10.42	2.54
Class 4	10.47	2.54
Class 5	10.52	2.54
Zone 3:		
Class 1	10.07	2.54
Class 2	10.17	2.54
Class 3	10.27	2.54
Class 4	10.32	2.54
Class 5	10.43	2.54
Zone 3A:		
Class 1	10.31	2.54
Class 2	10.42	2.54
Class 3	10.52	2.54
Class 4	10.57	2.54
Class 5	10.67	2.54
Zone 4:		
Class 1	9.66	2.54
Class 2	9.77	2.54
Class 3	9.87	2.54
Class 4	9.92	2.54
Class 5	10.02	2.54

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	Basic Hourly Rates	Fringe Benefits
LABORERS: OPEN CUT CONSTRUCTION:		
Contracts $400,000 or less:		
Zone 5:		
Class 1	$10.07	$2.54
Class 2	10.17	2.54
Class 3	10.27	2.54
Class 4	10.32	2.54
Class 5	10.43	2.54
Zone 6:		
Class 1	9.62	2.99
Class 2	9.72	2.99
Class 3	9.82	2.99
Class 4	9.87	2.99
Class 5	9.98	2.99
Zone 7:		
Class 1	9.98	2.54
Class 2	10.09	2.54
Class 3	10.19	2.54
Class 4	10.24	2.54
Class 5	10.34	2.54
Zone 8:		
Class 1	8.75	2.54
Class 2	8.85	2.54
Class 3	8.95	2.54
Class 4	9.00	2.54
Class 5	9.11	2.54
Zone 9:		
Class 1	7.91	2.54
Class 2	8.02	2.54
Class 3	8.12	2.54
Class 4	8.17	2.54
Class 5	8.27	2.54
Zone 10:		
Class 1	7.55	2.54
Class 2	7.66	2.54
Class 3	7.76	2.54
Class 4	7.81	2.54
Class 5	7.91	2.54
Zone 11:		
Class 1	8.88	2.54
Class 2	8.98	2.54
Class 3	9.09	2.54
Class 4	9.14	2.54
Class 5	9.19	2.54
LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION:		
Contracts over $400,000:		
Zone 1:		
Class 1	12.46	4.14
Class 2	12.55	4.14
Class 3	12.60	4.14
Class 4	12.75	4.14
Class 5	12.96	4.14
Class 6	13.22	4.14

	Basic Hourly Rates	Fringe Benefits
LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION (Cont'd):		
Contracts over $400,000 (Cont'd):		
Zone 2:		
Class 1	$13.01	$2.54
Class 2	13.10	2.54
Class 3	13.15	2.54
Class 4	13.30	2.54
Class 5	13.51	2.54
Class 6	13.76	2.54
Zone 3:		
Class 1	12.56	2.99
Class 2	12.65	2.99
Class 3	12.70	2.99
Class 4	12.85	2.99
Class 5	13.06	2.99
Class 6	13.31	2.99
Contracts $400,000 or less:		
Zone 1:		
Class 1	11.21	4.14
Class 2	11.30	4.14
Class 3	11.35	4.14
Class 4	11.50	4.14
Class 5	11.71	4.14
Class 6	11.97	4.14
Zone 2:		
Class 1	11.01	2.54
Class 2	11.09	2.54
Class 3	11.15	2.54
Class 4	11.30	2.54
Class 5	11.51	2.54
Class 6	11.76	2.54
Zone 3:		
Class 1	10.55	2.99
Class 2	10.63	2.99
Class 3	10.68	2.99
Class 4	10.84	2.99
Class 5	11.04	2.99
Class 6	11.30	2.99

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Zone 1 - Huron, Lapeer, Macomb, St. Clair, Sanilac, Tuscola & Wayne Counties; Insham County (Townships of Leroy, Locke, Wheatfield, White Oak & Williamson), Lenawee County (Townships of Clinton & Macon), Livingston County (all but the Townships of Tyrone, Cohoctah, Deerfield, and Unadilla), Monroe County (all but the Townships of Bedford, Erie, Lasalle, and Whiteford), Washtenaw County (all but the Townships of Lyndon, Manchester, Sharon, and Sylvan), Oakland County (all but the Township of Holly):		
Lineman-Technician	$17.63	$2.05 +13.5%
Cable Splicer	18.38	2.05 +13.5%
Combination Equipment Operator & Groundman	14.14	2.05 +13.5%
Combination Driver-Groundman	13.31	2.05 +13.5%
Groundman	12.26	2.05 +13.5%
Zone 2 - Remainder of State:		
Lineman-Technician	15.50	1.00+ 8.5%+a
Cable Splicer	16.13	1.00+ 8.5%+a
Combination Digger Operator - Tractor Operator	12.07	1.00+ 8.5%+a
Light Equipment Operator - Groundman, Distribution Line Truck Driver - Operator, Groundman	10.59	1.00+ 8.5%+a

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Cont.):		
Zone 2 (Cont'd):		
Combination Winch Truck Driver - Groundman	$10.10	1.00+ 8.5%+a
Combination Truck Driver - Groundman	8.55	1.00+ 8.5%+a

(See Footnote on Page 9)

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION		
ZONE 1 - WAYNE, MONROE, OAKLAND, WASHTENAW, MACOMB & GENESEE		
CLASS 1	$13.18	$4.35 +13%
CLASS 2	12.69	4.35 +13%
CLASS 3	12.25	4.35 +13%
CLASS 4	12.12	4.35 +13%
ZONE 2 - REMAINDER OF STATE		
CLASS 1	13.18	4.35 +13%
CLASS 2	12.58	4.35 +13%
CLASS 3	12.13	4.35 +13%
CLASS 4	11.89	4.35 +13%
POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION:		
Contracts over $400,000:		
Zone 1:		
Class 1	14.93	4.35 +13%
Class 2	14.55	4.35 +13%
Class 3	13.90	4.35 +13%
Class 4	13.40	4.35 +13%
Zone 2:		
Class 1	13.42	4.35 +13%
Class 2	12.89	4.35 +13%
Class 3	12.45	4.35 +13%
Class 4	12.20	4.35 +13%
Contracts $400,000 or less:		
Zone 1:		
Class 1	$14.04	$4.35 +13%
Class 2	13.66	4.35 +13%
Class 3	13.02	4.35 +13%
Class 4	12.51	4.35 +13%
Zone 2:		
Class 1	12.09	4.35 +13%
Class 2	11.57	4.35 +13%
Class 3	11.12	4.35 +13%
Class 4	10.88	4.35 +13%
POWER EQUIPMENT OPERATORS: STEEL ERECTION		
ZONE 1 - ALCONA, ALPENA, ARENAC, BAY, CHEBOYGAN, CLARE, CLINTON, CRAWFORD, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, IOSCO, ISABELLA, JACKSON, LAPEER, LENAWEE, LIVINGSTON, MACOMB, MIDLAND, MONROE, MONTMORENCY, OAKLAND, OGEMAW, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLAIR, SANILAC, SHIAWASSEE, TUSCOLA, WASHTENAW & WAYNE COS.		
CLASS 1	17.37	4.35 +13%
CLASS 2	18.26	4.35 +13%
CLASS 3	17.13	4.35 +13%
CLASS 4	18.02	4.35 +13%
CLASS 5	16.49	4.35 +13%
CLASS 6	17.37	4.35 +13%
CLASS 7	16.17	4.35 +13%
CLASS 8	17.05	4.35 +13%
CLASS 9	15.96	4.35 +13%
CLASS 10	12.98	4.35 +13%
CLASS 11	11.82	4.35 +13%

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: STEEL ERECTION (CONT'D)		
ZONE 2 - ALLEGAN, ANTRIM, BARRY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, EATON, EMMET, GRAND TRAVERSE, HILLSDALE, IONIA, KALAMAZOO, KALKASKA, KENT, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MISSAUKEE, MONTCLAM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA, OTTAWA, ST. JOSEPH, VAN BUREN & WEXFORD COS.		
CLASS A	$16.45	$4.35
CLASS B	16.20	4.35
CLASS C	15.70	4.35
CLASS D	14.10	4.35
CLASS E	12.75	4.35
CLASS F	11.40	4.35
ZONE 3 - ALL COUNTIES IN UPPER PENINSULA		
CLASS 1	12.62	4.30+ 13%
CLASS 2	11.20	4.30+ 13%
CLASS 3	10.10	4.30+ 13%

CLASSIFICATION: (ZONE 3 only)
CLASS 1 - Operator
CLASS 2 - Compressor & Welder
CLASS 3 - Oiler & Fireman

NOTE:
1-Cranes with Boom & Jib of 220' or longer, Tower Cranes & Derricks-- $.75 per hour more than Class 1
2-Cranes with Boom & Jib of 140' or longer-- $.50 per hour more than Class 1
3-Cranes with Boom & jib of 120' or longer-- $.25 per hour more than Class 1

	Basic Hourly Rates	Fringe Benefits
SIGN INSTALLERS:		
ZONE 1- WAYNE, MONROE, OAKLAND, WASHTENAW, MACOMB, & GENESEE COS.		
CLASS A	12.5222	b
CLASS B	12.2725	b
ZONE 2 - REMAINDER OF STATE		
CLASS A	11.6725	b
CLASS B	11.4225	b

CLASS A - Performs all necessary labor uses all tools required to construct & set concrete forms required in the installation of highway & street signs

CLASS B - Performs all miscellanious labor, uses all hand & power tools, & operates all other equipment, mobile or otherwise, required for the installation of highway & street signs

FOOTNOTE:
b. $99.50 per week, per employee

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION		
ZONE 1 - GENESEE, OAKLAND, MACOMB, MONROE, WASHTENAW, WAYNE, AND LIVINGSTON COUNTIES.		
CLASS 1	13.54	.50+c
CLASS 2	13.65	.50+c
CLASS 3	13.79	.50+c
ZONE 2 - REMAINDER OF STATE		
CLASS 1	13.44	.50+c
CLASS 2	13.54	.50+c
CLASS 3	13.69	.50+c

FOOTNOTE:
c. $98.50 per week, per employee

TRUCK DRIVERS UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
ZONE 1 - WAYNE, OAKLAND, MACOMB, WASHTENAW, MONROE, ST. CLAIR, GENESEE, HURON, SANILAC & LIVINGSTON (Eastern ½ of Co.)		
CLASS 1	$13.37	d
CLASS 2	13.50	d
CLASS 3	13.70	d
ZONE 2 - LAPEER & SHIAWASSEE COS.		
CLASS 1	13.27	d
CLASS2	13.40	d
CLASS 3	13.60	d
ZONE 3 - JACKSON, LENAWEE & HILLSDALE COS.		
TRUCK DRIVERS	11.73	d
FOOTNOTE: d $99.50 per week, per employee		
ZONE 4 - BRANCH, CALHOUN & EATON (Southern ½) COS.		
CLASS 1	11.35	e+.20
CLASS 2	11.45	e+.20
FOOTNOTE: e. $65.00 per week per employee		
ZONE 5 - BENZIE, MANISTEE, MASON, LAKE, OCEANA, NEWAYGO & MUSKEGON COS. (See Footnote d, Zone 3)		
TRUCK DRIVERS	11.73	d
ZONE 6 - CLINTON, INGHAM, IONIA (Eastern ½), EATON (Northern ½) & LIVINGSTON (Western ½) COS.		
CLASS 1	10.16	f
CLASS 2	10.26	f
CLASS 3	10.36	f
CLASS 4	10.66	f
FOOTNOTE: f. $89.50 per week per employee		

	Basic Hourly Rates	Fringe Benefits
ZONE 7 - EMMET, CHARLEVOIX, ANTRIM, LEELANAU, KALKASKA, GRAND TRAVERSE, WEXFORD, MISSAUKEE, OSCEOLA, MECOSTA, MONTCALM, KENT, OTTAWA & IONIA (Western ½) cos.		
CLASS 1	11.50	g
CLASS 2	11.40	g
CLASS 3	11.60	g
CLASS 4	11.70	g
FOOTNOOTE: g. $76.50 per week per employee		
ZONE 8 - ALLEGAN, BARRY, VAN BUREN, KALAMAZOO, CASS, BERRIEN & ST. JOSEPH COS.		
CLASS 1	10.02	h
CLASS 2	10.42	h
FOOTNOTE: h. $89.50 per week, per employee		
ZONE 9 - ENTIRE UPPER PENINSULA		
CLASS 1	13.54	.50+c
CLASS 2	13.64	.50+c
CLASS 3	13.79	.50+c
FOOTNOTE: c. $98.50 per week per employee		
ZONE 10 - REMAINDER OF STATE		
CLASS 1	10.30	f
CLASS 2	10.40	f

TRUCK DRIVERS (CONT')	Basic Hourly Rates	Fringe Benefits
CLASS 3	10.50	f
CLASS 4	10.60	f
FOOTNOTE: f. $80.50 per week, per employee		

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

	Basic Hourly Rates	Fringe Benefits

CLASSIFICATION DEFINITIONS

LABORERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION

CLASSIFICATIONS:

CLASS A - Line-Form Setter for curb or pavement

CLASS B - Pipe Layer, Oxygen Gun

CLASS B-1 - Asphalt Raker

CLASS B-2 - Asphalt Tamper and Asphalt Raker Helper

CLASS C - Tunnel Miner (highway work only), Finishers Tender, Guard Rail Builder, Highway and Median Barrier Installer (including sound barrier & crash barrier), Fence Erector, Bottom Man, Powder Man, Wagon Drill and Air Track Operators, Curb and Side Rail Setters' Helpers, Diamond and Core Drills .

CLASS D - Mixer Operator (less than 5 sacks), Air or Electric Tool Operators (jackhammer, etc.), Spreader, Boxman (asphalt, stone, gravel, etc.), Concrete Paddler, Power Chain Saw Operator, Paving Batch Truck Dumper, Asphalt Screed Checker, Grade Checker and Tunnel Mucker (highway work only), Concrete Saw (under 40 h.p.), and Dry Pack Machine.

CLASS E - Cement Handler or Dockman, Topman, Asphalt Dust Handler.

CLASS F - Asphalt Shoveler or Loader, Asphalt Plant Misc., Axe Man, Batch Bin (no power), Burlap man, Carpenter's Helper, Subgrade Labor (hand tools), Yard Men, Guard Rail Builder's Helper, Highway and Median Barrier Installer's Helper, Fence Erector's Helper, Dumper (wagon, truck, etc.), Jetting Labor, Joint Filling Labor, Misc. Unskilled Labor, Powder Monkey (helper), Sprinkler Labor, Form Setting Labor, Pavement Reinforcing, Handling and Placing (e.g. wire mesh, steel mats, dowel bars, etc.), Mason's or Bricklayer's Tender on Manholes, Headwalls, etc., water proofing, seal coating and Slurry mix.

CLASS G - Pavement Markers

CLASS H - Cone Setters

ZONE DEFINITIONS FOR CLASSES A THROUGH F:

ZONE 1 - GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW & WAYNE COUNTIES.

ZONE 2 - ALLEGAN, BARRY, BAY, BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, GRATIOT, HILLSDALE, HURON, INGHAM, JACKSON, KALAMAZOO, LAPEER, LENAWEE, LIVINGSTON, MIDLAND, MUSKEGON, SAGINAW, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN COUNTIES.

ZONE 2A- IONIA, KENT, MONTCALM, OTTAWA COUNTIES.

ZONE 3 - ALCONA, ALGER, ALPENA, ANTRIM, ARENAC, BARAGA, BENZIE, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CRAWFORK, DELTA, DICKINSON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, HOUGHTON, IOSCO, IRON, ISABELLA, KALKASKA, KEWEENAW, LAKE, LEELANAU, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MENOMINEE, MISSAUKEE, MONTMORENCY, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SCHOOLCRAFT & WEXFORD COUNTIES.

ZONE 3A- MECOSTA & OSCEOLA COUNTIES.

LABORERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION (Cont'd):

ZONE DEFINITIONS FOR CLASSES G AND H:

Zone 1 - Genewee, Macomb, Monroe, Oakland, Washtenaw and Wayne Counties
Zone 2 - Remainder of State.

LABORERS: OPEN CUT CONSTRUCTION:

ZONE DEFINITIONS:

Zone 1: Macomb, Oakland and Wayne Counties
Zone 2: Livingston County (southeast part) and Washtenaw County
Zone 3: Monroe, Sanilac and St. Clair Counties
Zone 4: Hillsdale, Jackson and Lenawee Counties
Zone 5: Clinton, Eaton, Ingham Counties; Ionia County (City of Portland), Livingston County (western part)
Zone 6: Genesee, Lapeer and Shiawassee Counties
Zone 7: Arenac, Bay, Clare, Gladwin, Gratiot, Huron, Isabella, Midland, Ogemaw, Roscommon, Saginaw and Tuscola Counties
Zone 8: Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton County (southwest part to City of Olivet), Kalamazoo, Lake County (eastern part), Muskegon, Newaygo, Oceana, St. Joseph and Van Buren Counties
Zone 9: Ionia County (except the City of Portland), Kent, Mecosta, Montcalm, Osceola, and Ottawa Counties
Zone 10: Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Iosco, Kalkaska, Lake County (western part), Leelanau, Manistee, Mason, Missaukee, Montmorency, Oscoda, Otsego, Presque Isle, Wexford Counties
Zone 11: Entire Upper Peninsula

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION:

ZONE DEFINITIONS:

Zone 1: Macomb, Oakland and Wayne Counties
Zone 2: Genesee, Lapeer & Shiawassee Counties
Zone 3: Remainder of State

LABORERS: OPEN CUT CONSTRUCTION

CLASSIFICATIONS:
CLASS 1 - Construction Laborers
Class 2 - Mortar and Material Mixer, Concrete Form Man, Signal Man, Well Point Man, Manhole, Headwall and Catch Basin Builder, Guard Rail Builders and Fence Erector
Class 3 - Air, Gasoline and Electric Tool Operator, Vibrator Operator, Drillers Pump Man, Tar Kettle Operator, Bracers, Rodders, Reinforced Steel or Mesh Men (e.g. wire mesh, steel mats, dowel bars, etc.), Cement Finisher, Pipe Jacking and Boring Man, Wagon Drill and Air Track Operator and Concrete Saw Operator (under 40 h.p.), Windlass and Tugger Man.
Class 4 - Trench or Excavating Grade Man.
Class 5 - Pipe Layer (including crock, metal pipe, multi-plate or other conduits).

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION

CLASSIFICATIONS:
Class 1 - Tunnel, Shaft and Caisson Laborer, Dump Man, Shanty Man, Hog House Tender, Testing Man (on gas).
Class 2 - Manhole, Headwall, Catch Basin Builder, Bricklayer Tender, Mortar Man, Material Mixer, Fence Erector and Guard Rail Builder.
Class 3 - Air Tool Operator (jackhammer man, bush hammer man & grinding man), First Bottom Man, Second Bottom Man, Cage Tender, Car Pusher, Carrier Man, Concrete Man, Concrete Form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor Man, Floor Man, Gasoline and Electric Tool Operator, Gunnite Man, Grout Operator, Pump Man, Outside Lock Tender, Scaffold Man, Top Signal Man, Switch Man, Track Man, Tugger Man, Utility Man, Vibrator Man, Winch Operator, Pipe Jacking, Boring Man, Wagon Drill and Air Track Operator and Concrete Saw Operator (under 40 h.p.).
Class 4 - Tunnel, Shaft and Caisson Mucker, Bracer Man, Liner Plate Man, Long Haul Dinky Driver and Well Point Man.
Class 5 - Tunnel, Shaft and Caisson Miner, Drill Runner, Key Board Operator, Power Knife Operator, Reinforced Steel or Mesh Man (e.g. wire mesh, steel mats dowel bars, etc.).
Class 6 - Dynamite Man and Powder Man.

FOOTNOTE:
a - 7 Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day (Providing the employee worked the scheduled work day preceding and the next work day following the day observed.)

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION

CLASSIFICATIONS:

CLASS 1 - Asphalt Plant Operator, Crane Operator, Dragline, Shovel Operator, Locomotive Operator, Paver (5 bags or more), Elevating Grader Operator, Pile Driving Operator, Roller (asphalt), Blade Grader Operator, Trenching Machine (ladder or wheel type), Auto-Grader, Slip Form Paver, Self-Propelled or Tractor Drawn Scraper, Conveyor Loader Operator (euclid type), Endloader Operator (1 yd capacity or over), Bulldozer, Concrete Pump (3" and over), Swing Boom Truck (over 12 ton capacity), Hoisting Engineer, Tractor Operator, Finishing Machine (asphalt Mechanic, Pump Operator (6" discharge or over, gas, diesel powered or generator of 300 amp or over), Shoulder or Gravel Distributing, Machine Operator (self-propelled), Backhoe (with over 3/8 yard bucket), Side Boom Tractor (type D-4 or equivalent or larger), Tube Finisher (slip form paving), Gradall (and similar type machines), Asphalt Paver (self-propelled), Asphalt Planer (self-propelled) Batch Plant (Concrete-central mix, transit mix, shrink mix), Slurry Machine (asphalt), Roto Mill.

CLASS 2 - Sweeper (Wayne type & similar equipment), Screening Plant Operator, Washing Plant Operator, Crusher, Backhoe (with 3/8 yard bucket or less), Side Boom Tractor (smaller than D-4 type or equivalent), Batch Plant (concrete - dry mix).

CLASS 3 - Air Compressor Operator (600 cfm or more), Air Compressor (2 or more - less than 600 cfm), Wagon Drill Operator, Concrete Breaker, Tractor Operator (Farm type w/ attachments).

CLASS 4 - Boiler Fireman, Oiler, Fireman, Mechanic's Helper, Trencher (service), Flexplane Operator, Cleftplane Operator, Grader (Self-propelled Fine-Grade or Form (concrete)), Finishing Machine (concrete), Boom or Winch Hoist Truck Operation Concrete Pump (under 3"), Mesh Installer (self-propelled), Endloader (under 1 yard capacity), Roller Operator (other than asphalt), Curing Equipment (self-propelled), Concrete Saw Operator (40 h.p. or over), Power Bin Operator, Plant Drier (asphalt), Vibratory Compaction Equipment (6 ft. wide or over), Guard Post Driver (power driven), All Mulching Equipment, Stump Remover, Farm Type Tractor Operator.

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION

CLASSIFICATION DEFINITIONS:

Class I: Backfiller Tamper, Backhoe, Batch Plant Operator (concrete), Clamshell, Concrete Paver (two drum or larger), Conveyor Loader (euclid type), Crane (crawler, truck type or pile driving), Dozer (9 ft. blade and over), Dragline, Elevating Grader, Endloader (over 1½ cubic yds. capacity), Gradall (and similar type equipment), Mechanic, Power Shovel, Roller (asphalt), Scraper (self-propelled or tractor drawn), Side Boom Tractor (type D-4 or equivalent and larger), Slip Form Paver, Slope Paver, Trencher (over 8 ft. digging capacity), Well Drilling Rig

Class II: Boom Truck (power swing type boom), Crusher, Dozer (less than 9 ft. blade), Endloader (1½ cubic yds. capacity and smaller), Hoist, Pump (one or more - 6 in. discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), Side Boom Tractor (smaller than type D-4 or equivalent), Sweeper (Wayne type and similar equipment), Tractor (pneu-tired, other than backhoe or front end loader), Trencher (8 ft. digging capacity)

Class III: Air Compressors (6000 cfm or larger), Air Compressors (two or more - less than 600 cfm), Boom Truck (non-swinging, non-powered type boom), Concrete Breaker (self-propelled or truck mounted - includes compressor), Concrete Paver (one drum - 1½ yd. or larger), Elevator (other than passenger), Maintenance Man, Mechanic Helper, Pump (two or more - 4 in. up to 6 in. discharge - gas or diesel powered - excluding submersible pumps), Pumpcrete Machine (and similar equipment), Wagon Drill (multiple), Welding Machine or Generator (two or more 300 amp. or larger - gas or diesel powered)

Class IV: Boiler, Concrete Saw (40 h.p. or over), Curing Machine (self-propelled), Farm Tractor (with attachment), Finishing Machine (concrete), Fireman, Hydraulic Pipe Pushing Machine, Mulching Equipment, Oiler, Pumps (two or more up to 4 in. discharge if used three hours or more a day - gas diesel powered - excluding submersible pumps), Roller (other than asphalt), Stump Remover, Trencher (service), Vibrating Compaction Equipment (self-propelled, 6 ft. wide or over)

ZONE DEFINITIONS:

Zone 1: Bay, Branch, Calhoun, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Sanilac, Shiawassee, St. Clair, Tuscola, Washtenaw, Wayne Counties

Zone 2: Remainder of State

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS: STEEL ERECTION

CLASSIFICATIONS: (ZONE 1 only)
CLASS 1 - Crane Operator when operating combination of Boom and Jib 220' or longer.
CLASS 2 - Crane Operator when operating combination of Boom and Jib 220' or longer on a Crane that requires an Oiler.
CLASS 3 - Crane Operator when operating combination of Boom and Jib 140' or longer.
CLASS 4 - Crane Operator when operating combination of Boom and Jib 140' or longer on a Crane that requires an Oiler.
CLASS 5 - Crane Operator when operating combination of Boom and Jib 120' or longer.
CLASS 6 - Crane Operator when operating combination of Boom and Jib 120' or longer on a Crane that requires an Oiler.
CLASS 7 - Crane Operator and Job Mechanic.
CLASS 8 - Crane Operator on a Crane that requires an Oiler.
CLASS 9 - Hoisting Operator.
CLASS 10 - Compressor and/or Welder Operator.
CLASS 11 - Oiler.

POWER EQUIPMENT OPERATORS: STEEL ERECTION (Cont'd)

CLASSIFICATIONS: (ZONE 2 only)
CLASS A - Crane Operator with main Boom & Jib 220' or longer.
CLASS B - Crane Operator with main Boom & Jib 140' or longer, Tower Cranes, Gantry Cranes, Whirley Derrick.
CLASS C - Regular Equipment Operator, Crane, Dozer, Loader, Hoist, Straddle Wagon, Job Mechanic.
CLASS D - Air Tugger (single drum), Material Hoist, Pump (6" or over).
CLASS E - Air Compressor, Welder, Generators, Conveyors.
CLASS F - Oiler and Fireman.

TRUCK DRIVERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION

CLASSIFICATIONS:
CLASS 1 - Truck Drivers (less than 8 cyd capacity).
CLASS 2 - Truck Drivers (8 cyd Capacity & over).
CLASS 3 - Drivers (Euclid type equipment).

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS: UNDERGROUND CONSTRUCTION

CLASSIFICATIONS: (ZONES 1 & 2 only)
CLASS 1 - Truck Drivers on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, euclid, double bottom & fuel trucks.)
CLASS 2 - Truck Drivers of Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks.
CLASS 3 - Truck Drivers on Low Boys, Euclid & Double Bottoms.

CLASSIFICATIONS: (ZONE 4 only)
CLASS 1 - Truck Drivers (Straight & dump trucks less than 8 cubic yards capacity.)
CLASS 2 - Dump Trucks (8 cubic yards capacity & over), Tandem Axles & Semis.

CLASSIFICATIONS: (ZONE 6 only)
CLASS 1 - Truck Drivers on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers & double bottoms.)
CLASS 2 - Truck Drivers on Dump Trucks of 8 cubic yards capacity or over & Pole Trailers.
CLASS 3 - Low Boys & Double Bottoms.
CLASS 4 - Structural Steel Driver.

CLASSIFICATIONS: (ZONE 7 only)
CLASS 1 - Truck Drivers.
CLASS 2 - Yardmen.
CLASS 3 - Truck Drivers on trucks 8 cubic yards capacity or over, Mechanics.
CLASS 4 - Semi Driver.

CLASSIFICATIONS: (ZONE 8 only)
CLASS 1 - Straight or Dump Drivers.
CLASS 2 - Semi &/or Double Bottoms.

CLASSIFICATIONS: (ZONE 9 only)
CLASS 1 - Truck Drivers (less than 8 cubic yards capacity.)
CLASS 2 - Truck Drivers (8 cubic yards capacity & over.)
CLASS 3 - Drivers (Euclid type equipment.)

CLASSIFICATIONS: (ZONE 10 only)
CLASS 1 - Truck Drivers & General Warehouse Combination.
CLASS 2 - Tander Trucks & Trucks 8 cubic yards or over capacity.
CLASS 3 - Semis, Double Bottoms, Low Boys, Pitman Operators &/or related equipment.
CLASS 4 - Euclid type, Bottom & End Dump Drivers.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren & City & County of St. Louis

DECISION NO.: MO84-4108

DATE: Date of Publication

Supersedes Decision No. MO84-4017, dated March 16, 1984 in 49 FR 10005.

DESCRIPTION OF WORK: Residential Projects, consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$20.57	$3.48
BRICKLAYERS; STONEMASONS	16.45	3.77
BOILERMAKERS	17.495	3.25
CARPENTERS:		
ZONE 1 - St. Louis City & County:		
Carpenters (including insulation)	15.96	2.70
Carpenters-reinsulator (not including pipe & duct insulation)	10.95	2.12
ZONE 2 - Remainder of Counties:		
Carpenters	15.96	2.70
ELECTRICIANS:		
ZONE I - City & County of St. Louis & St. Charles County	16.60	2.19+ 28⅛%
ZONE II - Franklin, Jefferson, Lincoln & Warren Cos. where the electrical contracts exceeds $15,000	16.60	2.19+ 28⅛%
ZONE III - Franklin, Jefferson, Lincoln, & Warren Cos. where electrical contracts does not exceed $15,000	14.78	2.19+ 28⅛%
ELEVATOR CONSTRUCTORS	16.49	2.69+a
ELEVATOR CONSTRUCTORS HELPERS	70%JR	2.69+a
ELEVATOR CONSTRUCTORS HELPERS (PROBATIONARY)	50%JR	
a-Employer contributes 8% of basic hourly rate for over 5 years' service & 6% of basic hourly rate for 6 mos. to 5 years as Vacation Pay Credit, also 7 paid holidays.		
GLAZIERS	16.55	6.05+ 13.2%
IRONWORKERS	$16.725	$3.49
LABORERS:		
Zone I - St. Louis City & County:		
Laborers General	12.675	1.70
Laborers, site improvement	10.175	2.50
Plumber, laborer	15.65	2.50
Zone II - Lincoln & Warren Counties	13.07	2.55
Zone III - Jefferson Co.:		
Contracts less than $500,000.00:		
General laborer	13.60	2.15
Powderman	14.35	2.15
Mason tenders; plaster tender; grade checker; pipelayer	14.10	2.15
Contracts $500,000.00 or over:		
General laborer	14.20	2.15
Powderman	14.95	2.15
Mason tenders; plaster tender; grade checker; pipelayer	14.70	2.12
Zone IV - Franklin Co.:		
Contracts less than $500,000:		
General Laborers	13.00	1.95
Mason Tenders, Plumber Laborer, Plaster Tender	13.20	1.95
Contracts $500,000 or over:		
General Laborer	14.50	1.95
Mason tenders, Plumber laborer, plaster tender	14.70	1.95
Zone V - St. Charles Co.:		
Laborers, general	13.57	2.55
MARBLE SETTERS	15.96	3.145
PAINTERS:		
Brush	15.66	2.03
Spray	17.66	2.03

	Basic Hourly Rates	Fringe Benefits
PIPEFITTERS (Franklin, Jefferson, St. Charles, City & County of St. Louis & Warren Cos.)	18.85	5.58
PIPEFITTERS & PLUMBERS (Lincoln County)	18.85	5.58
PLUMBERS (Franklin, Jefferson, St. Charles, City & County of St. Louis & Warren Counties	17.105	4.55
PLASTERERS	17.505	1.62
POWER EQUIPMENT OPERATORS:		
GROUP I	14.32	2.95
GROUP II	14.32	2.95
GROUP III	13.77	2.95
GROUP IV	13.32	2.95
ROOFERS:		
Composition; Slate & Tile	15.15	2.15
SHEET METAL WORKERS	17.64	2.85+ 3%
SPRINKLER FITTERS	19.86	3.27
TERRAZZO WORKERS	19.55	
TILE SETTERS	15.93	3.145
TILE WORKER FINISHER	14.12	2.605
TRUCK DRIVERS:		
GROUP 1	13.52	76.50 per wk. +b
GROUP 2	13.72	"
GROUP 3	13.82	"
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

b - Paid vacation of 3 days for 600 hours of service in any one contract year; 4 days paid vacation for 800 hours of service in any one contract year; 5 days paid vacation for 1,000 hours of service in any one contract year. Also 7 paid holidays

Basic Hourly Rates	Fringe Benefits

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:

Group 1: Trucks or trailers of a water level capacity of 11.99 cu. yds. or less, fork lift trucks, job site ambulances & pick-up trucks and flat bed trucks

Group 2: Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace and similar equipment of same capacity.

Group 3: Trucks or trailers of a water level capacity of 22.0 cu. yds. and over including euclids, speedace and all floats, flat bed trailers, boom trucks & similar equipment of same capacity.

POWER EQUIPMENT OPERATORS

GROUP I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted-16 tons & over; crane, locomotive; derrick, steam; derrick car or derrick boat; dragline; dredge; gradeall, crawler or tire mounted; locomotive gas, steam & other powers; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas electric or other powers); switch boat; & whirley.

GROUP II - Air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feeder loader (self-propelled); back-filling machine; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixer-mobile; compressors, two, not more than 50 ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not-self-propelled) hoisting or moving brick and concrete into, or into and on floor level,one or both; crane, hydraulic rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons;drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jack-hammers and barco equipment); elevating grader; engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift;grader, road with power blade; highlift; hoist, concrete and brick (brick cages on concrete skips operating in or on tower, tower-mobile, or similar equipment); hoist, stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mixer-mobile, mucking machine, pipe cleaning machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix-job site; plant, heating-job-site; plant mixing job site; plant, power generating-job site;

POWER EQUIPMENT OPERATORS (Cont'd):

GROUP II (Cont'd)
pumps, two self-power, over 2" through 6" pumps, electric submersible, one through three, over 4" quad-track; roller, asphalt, top or subgrade; scoop tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine, tunnel boring machine; vibrating machine, automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine; mechanic on job site; mixer, paving; compressor (when operator run throttle); compressor-generator combination; compressor-pump combination;generator two 30 KW or over, or any number developing over 30 KW; generator pump combination; pumps, electric submersible, one through three, over 4".

GROUP III - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one;compressor, air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor, large (not-self-propelled) moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixer with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane, pug mill operator; pump, sump-self-powered, automatic controller over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck; scissor lift (used for hoisting); curb finishing machine, tractor, small wheel type 50 h.p. & under with grader, blade and similar equipment.

GROUP IV - Boat-operated-outboard motor (job-site); conveyor (such as con-vay-it), regardless of how used; oiler; sweeper, floor.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren, and City and County of St. Louis

DECISION NUMBER: MO84-4110

DATE: Date of Publication

Supersedes Decision No. MO84-4016, dated March 16, 1984, in 49 FR 1002.

DESCRIPTION OF WORK: Building projects, excluding single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Asbestos Workers	$20.57	$ 3.48
Swing Stage of Boson's Chair	21.23	3.48
BOILERMAKERS	17.495	3.25
BRICKLAYERS, STONEMASONS	16.45	3.77
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN:		
Zone 1	16.96	2.87
CARPENTERS:		
Zone 2:		
Contracts $500,000.00 and under	15.26	2.87
Contracts over $500,000.00	16.96	2.87
Zone 3:		
Contracts $500,000.00 and under	15.26	2.87
Contracts over $500,000.00	16.96	2.87
CEMENT MASONS:		
Zone 1	15.35	2.60
Zone 2:		
Projects less than $700,000.00	14.65	2.60
Projects over $700,000.00	15.35	2.60
ELECTRICIANS:		
Zone 1	17.20	2.19 + 28½%
Zone 2	17.20	2.19 + 28½%
Zone 3	14.78	2.19 + 28½%
ELEVATOR CONSTRUCTORS	16.49	2.69+a
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	2.69+a
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	
GLAZIERS	16.55	6.05 +13.2%
IRONWORKERS	16.725	3.49
LABORERS:		
Zone 1:		
General Laborers	15.275	2.58
Wrecking Laborers	15.15	2.58
Plasterers' Tenders	15.675	2.50
Mason Tenders, Brick	14.40	2.50
Plumber, Labor	15.65	2.50
Site Improvement labor	14.425	2.45
Zone 2:		
Contracts $500,000.00 or less:		
General Laborers	13.00	1.70
Mason Tenders, Plumbers' Laborers, Plaster Tender	13.20	1.70
Contracts over $500,000.00:		
General Laborers	14.50	1.70
Mason Tenders, Plumbers' Laborers, Plaster Tender	14.70	1.70
Zone 3:		
Contracts less than $500,000.00:		
General Laborer	13.60	2.15
Powderman	14.35	2.15
Mason Tenders; Plaster Tenders; Grade Checker; Pipelayers	14.10	2.15
Contracts $500,000.00 or over:		
General Laborer	14.20	2.15
Powderman	14.95	2.15
Mason Tenders; Plaster Tenders; Grade Checker; Pipelayers	14.70	2.15
Zone 4:		
General Laborer	15.32	2.55
Plumber Laborer	13.57	2.55

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
Zone 5:		
General Laborer projects under $1.5 Million	$14.32	$2.55
General Laborer projects $1.5 Million to 15 Million	14.82	2.55
General Laborer projects over $15 Million	15.32	2.55
Plumber Laborer	13.07	2.55
MARBLE SETTERS	15.16	2.905
PAINTERS:		
Brush	15.66	2.03
Spray & Sandblasting	17.66	2.03
PIPEFITTERS:		
Zone 1	18.85	5.58
PIPEFITTERS AND PLUMBERS:		
Zone 1	18.85	5.58
PLASTERERS	17.505	1.62
PLUMBERS:		
Zone 1	17.105	4.55
POWER EQUIPMENT OPERATORS:		
Group I	16.32	4.04
Group II	16.32	4.04
Group III	15.02	4.04
Group III (a)	13.95	4.04
Group IV	14.57	4.04
Group IV (a)	13.49	4.04
Group V:		
(a)	17.02	4.04
(b)	17.87	4.04
(c)	18.32	4.04
(d)	19.07	4.04
ROOFERS:		
Composition, Slate & Tile	15.15	2.15
SHEET METAL WORKERS	17.64	2.85+ 3%
SPRINKLER FITTERS	19.86	3.27
TERRAZZO WORKERS	19.55	
TILE SETTERS	15.93	3.145
TILE WORKERS' FINISHERS	14.12	2.605
TRUCK DRIVERS:		
Group 1 - Trucks or trailers of a water level capacity of 11.99 cu. yds. or less, fork lift trucks, job site ambulances & pick-up trucks and flat bed trucks	13.52	76.00 per/wk +b
TRUCK DRIVERS (CONT'D):		
Group 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace and similar equipment of same capacity	$13.72	$76.00 per/wk +b
Group 3 - Trucks or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace and all floats, flat bed trailers, boom trucks & similar equipment of same capacity	13.82	76.00 per/wk +b

FOOTNOTES

ELEVATOR CONSTRUCTORS:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also (7) Paid Holidays.

TRUCK DRIVERS:
b. Paid vacation of 3 days for 600 hours of service in any one contract year; 4 days paid vacation for 800 hours of service in any one contract year; 5 days paid vacation for 1,000 hours of service in any one contract year. Also 7 paid holidays.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

ZONE DESCRIPTIONS

CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN:
Zone 1: St. Louis City and County, and St. Charles County
Zone 2: Franklin, Lincoln, and Warren Counties
Zone 3: Jefferson County

CEMENT MASONS:
Zone 1: St. Louis City and County, Jefferson and St. Charles Counties
Zone 2: Franklin, Lincoln, and Warren Counties

ELECTRICIANS:
Zone 1: City and County of St. Louis, andSt. Charles County
Zone 2: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contracts exceeds $15,000.00
Zone 3: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contract does not exceed $15,000.00

LABORERS:
Zone 1: City and County of St. Louis
Zone 2: Franklin County
Zone 3: Jefferson County
Zone 4: St. Charles County
Zone 5: Lincoln and Warren Counties

PIPEFITTERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis City and County and Warren Counties

PIPEFITTERS AND PLUMBERS:
Zone 1: Lincoln County

PLUMBERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis City and County and Warren Counties

Power Equipment Operators Zone 2
Group I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted - 16 tons & over; crane locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric, or other powers); switch boat; whirley
Group II - air tuggerw/air compressor; anchor-placing barge; asphalt spreader; athey force feeder loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (jobsite); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer (such as mixermobile); compressors, two, not more than 50 ft. apart; compressor (when operator runs throttle); compressor-generator combination, compressor-pump combination; generators, two 30 KW or over, or any number developing over 30 KW; generator-pump combination; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines,self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers,jackhammers and barco equipment - no engineer required); elevating grader; engineman, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist; concrete and brick (brick cages or concrete skips operating in or on tower, towermobile, or similar equipment); hoist; stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe cleaning machine; pipe wrapping machines; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant power, generating-job site; pumps, two self-powered over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine
Group III - Conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; mixer two or more mixers of one bag capacityor less, air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck; concrete saw, self-propelled;curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist; one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are

Group III - (Cont'd):
used by one employer on job an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader,regardless of size, not paver; oiler on dredge; oiler on truck crane pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck; scissor lift (used for hoisting); tractor, small wheel type 50 h.p. & under with grader blade & similar equipment
Group III(a) - Truck crane and dredge
Group IV - Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardlessof how used; oiler; sweeper, floor
Group IV(a) - Crawler type
Group V - (a) Air pressure, oiler engineer, operating under ten pounds (b) air pressure, oiler engineer operating over ten pounds (c) air pressure engineer operating under ten pounds (d) air pressure engineer operating over ten pounds (e) crane-piledriving and extracting; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds. and over; crane, climbing such as Linden); derrick, diesel, gas or electric hoisting material and erecting steel - 150' or more above ground; hoists, three or more drums; scoop,tandem; tractor, tandem crawler

Crane with boom (including jib), over 100' from pin to pin (add 1¢ per foot to maximum of $2.00) above basic rate for crane

Work in tunnel or tunnel shaft, .50¢ above base rate

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards clauses (29 CFR, 5.5 (a)(1)(ii)).

NEW DECISION

STATE: NEW YORK COUNTY: ONEIDA
DECISION NO.: NY84-3050 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	18.21	3.16
BRICKLAYERS	13.35	3.85
CARPENTERS	13.27	2.05+a
CEMENT MASONS	13.35	3.85
ELECTRICIANS		
Verona and Viena Twps West of State Highway 13	17.10	3.25+3%
Remainder of County	15.45	3.08+3%
ELEVATOR CONSTRUCTOR	16.24	3.29+b+c
ELEVATOR CONSTRUCTOR HELPER	11.37	3.29+b+c
GLAZIER	12.16	
IRONWORKERS, Reinforcing	14.03	3.62
LABORERS		
Forestport, Remsen, Trenton, Deerfield, Whitestown, New Hartford Kirkland, Marshall, Paris, Sangerfield, Bridgewater and the City of Utica	10.64	2.20+d
Remainder of County	11.535	1.65+e
PAINTERS		
Brush	12.10	3.25
Taping	12.35	3.25
PLASTERERS	13.35	3.85
PLUMBERS & STEAMFITTERS	15.11	4.35
ROOFERS	15.25	3.45
SHEET METAL WORKERS	17.12	4.945+3%
SOFT FLOOR LAYERS	13.27	2.05+a
TILE SETTERS	11.75	3.55
POWER EQUIPMENT OPERATORS:		
Backhoe	16.98	4.25+e
Bulldozer	16.09	4.25+e
Crane	17.98	4.25+e
Cherry Picker	16.09	4.25+e
Compressor	14.29	4.25+e
Concrete Pump	16.09	4.25+e
Forklift	16.09	4.25+e
Oiler	14.29	4.25+e
WELDERS - Receive Rate prescribed for craft to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

DECISION NO. PA84-3050

FOOTNOTES:

a. Paid Holidays: Labor Day and Memorial Day provided the employee is on the payroll the week before or the week after the holiday and works the day after the holiday.

b. Paid Holidays: Memorial Day and Labor Day, provided the employee is on the payroll the week before and the week after.

c. Employer contributes 8% basic hourly rate for 5 years or more of services or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit

d. Paid Holidays: Memorial Day & Labor Day provided the employee is employed the work day immediately before and the work day immediately following the Holiday

e. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee has worked five consecutive working days before the Holiday and the working day after the holiday.

STATE: PENNSYLVANIA COUNTY: LUZERNE
DECISION NO. PA84-3049 DATE: Date of Publication
Supersedes Decision No. PA83-3047 dated October 14, 1983, in 48 FR 46922.
DESCRIPTION OR WORK: Building Construction, including singel family homes and apartments up to and including 4 stories, excluding Sewage and Water Treatment plant projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.33	2.66
BOILERMAKERS	19.33	2.415
BRICKLAYERS & STONEMASONS:		
Nescopeck, Hollenback and Salem Townships	14.65	2.06
Remainder of County	15.70	2.00
CARPENTERS:		
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescpeck, Sugarloaf and lower part of Salem Twps.	14.50	2.55
Remainder of County	14.99	2.55
CEMENT MASONS:		
Pittston, Yatesville, Laflin, Exeter Wyoming, Deruea and Avoca	15.65	
All North of Hazleton, extending half-way between Wilkes-Barre and Hazleton, Harleigh, Jeddo, Cranberry; Foster Twps., Butler Twps., Sugarloaf Twps., Conyngham, Drums, S. Johns, Borough of Freeland & White Haven, Banks Twps; Beaver Meadows, Tresckow, Jeansville & Aundenried	13.50	.01
Remainder of County	12.78	
ELECTRICIANS:		
That portion east of a line following the Susquehanna River south to the City of Pittston, east & south on the limits of Pittston but excluding it, to U.S. Highway 11, east on 11 to Dupont Borough & Highway 215, and southeast on 215. Also that portion of Luzerne County south and east of a line following the Thornhurst Road, southwest to State Highway 115 and southeast on 115 to the Monroe County line.	16.00	3.30+ 3%
Hazleton, Nescopeck, Hollenbach, Black Creek, Sugar Loaf, Hazle, Butler, Foster Twps., and the Borough of White Haven in their entirety and that portion of Dennison Twp., south and west of the Central Railroad of New Jersey line between Wright Township and White Haven	15.93	2.50+ 3%+a
Remainder of County	15.99	2.70+ 3%
ELEVATOR CONSTRUCTORS	15.585	3.29+ c+d
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	3.29+ c+d
ELEVATOR CONSTRUCTORS' (PROB.)	50%JR	
GLAZIERS	13.04	2.90
IRONWORKERS:		
Structural & Ornamental	17.75	4.30
Reinforcing	17.50	4.30
LABORERS:		
Hazleton:		
Laborers	10.19	2.80
Mason tenders including scaffold builders	10.59	2.80
Pneumatic, electrick and mechanical tool operators 2" pumps - nonmetallic pipelaying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers &		

DECISION NO. PA84-3049

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D)		
blasters' helpers, Power buggies, walk along hoist	10.29	2.80
Plasterers' tenders, blasters, and wagon drill operators	10.44	2.80
Remainder of County Building		
Unskilled Laborers	12.87	2.80
Semi skilled laborers, pneumatic and other mechanical tool operators; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason; non-metallic pipelayer & making of joints, clay, terra, cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material, cement finishers and blasters' helpers	13.07	2.80
Plasterers' tenders, blaster, wagon drill Ops.	13.19	2.80
Masons tender and scaffold builders	13.27	2.80
LATHERS:		
Pittston, Avoca, Dupont & Duryea	14.50	2.55
Remainder of County	14.99	2.55
LEANDBURNERS	10.75	.66+f
LINE CONSTRUCTION:		
Linemen, Dynamitemen, Heavy equipment operator	16.29	1.00+3 3/8%
Groundman	10.30	1.00+3 3/8%
Winch truck driver	11.59	1.00+3 3/8%
MARBLE SETTERS:		
Pittston & Hazleton	12.80	
Remainder of County	15.15	2.55
MILLWRIGHTS	16.57	2.55
PAINTERS:		
Brush	12.30	2.70
Tapers	12.96	2.70
Structural Steel	13.96	2.70
PILEDRIVERMEN	15.97	6.81+g
PLASTERERS:		
Hazleton	13.50	.01
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	13.50	.01
Remainder of County	12.78	
PLUMBERS	15.24	3.95
POWER EQUIMPMENT OPERATORS:		
Group 1	15.89	26.6%+a
Group 2	15.60	26.6%+a
Group 3	14.72	26.6%+a
Group 4	13.95	26.6%+a
Group 5	13.47	26.6%+a
Group 6	12.55	26.6%+a
Group 7	16.14	26.6%+a
Group 7-A	16.41	26.6%+a
Group 7-B	16.64	26.6%+a
ROOFERS:		
Roofers, Composition and Kettlemen	14.55	2.10
SHEET METAL WORKERS	15.92	2.00
SOFT FLOOR LAYER	12.29	2.55
STEAMFITTERS	14.79	4.85
SPRINKLER FITTERS	16.92	3.23
TRUCK DRIVERS:		
Pittston:		
Class 1	12.77	
Class 2	12.84	
Class 3	13.33	
Remainder of County:		
Pickup, service dump and flat including 2 license	8.07	h+j
All trucks over 2 license	8.12	h+j
Fork lifts; Tow motors; tired loaders	8.08	h+j
WELDERS: Receive rate for craft		

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

GROUP 1 - Machines doing hook work; any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to above

GROUP 2 - All types of Cranes & backhoes; Cableways; Draglines; Keystones; All types of shovels; Derricks; Trench Shovels; Trenching machines; Hoists with two towers; Pavers, 21E & over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All Front end loaders, 3½ cu. yds. & over; Tandem scrapers; pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift & over; Machines similar to above

GROUP 3 - Conveyors; Building hoists (single drum); Scrapers & Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers & tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Driller helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machines similar to above.

GROUP 4 - Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line graders; Fine grade machines; Road finishing machines; Concrete breaking machines; rollers; seaman pulverizer mixer; power broom; seeding spreaders; tireman (for power equipment); machines similar to above

GROUP 5 - Fireman, Grease truck

GROUP 6 - Oilers & deck hands (personnel boats); Core drill helper

GROUP 7 - All Machines with booms (including jib, masts, leads, etc.); 100 ft and over

GROUP 7-A - 150 ft and over

GROUP 7-B - 200 ft and over

TRUCK DRIVER CLASSIFICATIONS
PITTSTON

Class 1: Helper; Stake body truck (single axle dumpster)

Class 2: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles asphalt distributors; farm tractor when used for transportation; stake body truck (tandem)

Class 3: Euclids type; Off-highway equipment - back or belly dump trucks and double-hitched equipment; Straddle (Ross Carrier); Low-bed trailers

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: C, D, E and Good Friday.

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

f. Paid Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

h. $41.00 per month for employees who have worked 60 hours or more during the month.

j. $25.00 per month for employees employed for over 13 weeks.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(i)(ii)).

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTIES: Ashland, Bayfield and Douglas

DECISION NO. WI84-5028 DATE: Date of Publication.

Supersedes Decison No. WI83-2074 dated September 23, 1983 in 48 FR 43535

DESCRIPTION OF WORK: Building (including Residential) Contruction

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$19.15	1.46
BOILERMAKERS	17.345	3.25
BRICKLAYERS	14.88	2.20
CARPENTERS:		
Ashland County	12.90	2.65
Bayfield & Douglas Cos.	14.00	3.05
(Residential) Bayfield & Douglas Cos.	10.00	3.05
(Residential) Ashland	10.36	2.35
CEMENT MASONS:		
Douglas County	15.85	.70
Ashland & Bayfield Co.	14.06	2.20
ELECTRICIANS	15.75	27½%
Residential	9.75	1.38+ 3%
ELEVATOR CONSTRUCTORS	15.03	2.69
Helpers	10.52	2.69
Helpers (Probationary)	7.515	3.85
IRONWORKERS	15.22	3.85
LINE CONSTRUCTION		
Linemen	16.09	1.00+ 9½%
Heavy Equipment Operator	14.48	1.00+ 9½%
Light Equipment Operator	12.87	1.00+ 9½%
Heavy Groundman - Truck Driver	11.26	1.00+ 9½%
Light Groundman - Truck Driver	10.46	1.00+9½%
Groundman	8.85	1.00+ 9½%
MILLWRIGHTS & PILEDRIVERMEN:		9½%
Ashland County		
Millwrights	12.90+2%	2.65
Piledrivermen	12.90+3%	2.65
Bayfield & Douglas Cos.:		
Millwrights	14.22	2.80
Piledrivermen	14.22	2.80
PAINTERS:		
Brush	14.61	1.53
Spray	15.21	1.53
PLASTERERS	12.50	.85
PLUMBERS	17.36	3.35
ROOFERS	14.83	3.30
SHEET METAL WORKERS	19.19	2.27
SOFT FLOOR LAYERS	14.00	2.80
SPRINKLER FITTERS	16.67	2.83
TERRAZZO WORKERS	15.53	1.56
TILE SETTERS	14.88	2.20
LABORERS:		
Laborers:		
Ashland County only:		
General Laborer	10.88	1.68
Concrete Work and Carrying reinforcing or any steel	10.93	1.68
Mason Tenders, Bricklayers' Tenders, Sewer Diggers, Pipelayers, Operating Small Mixers or Mixing by hand, Operating Power Tools such as Jackhammers, Vibrator, Air Spade and Forklift	11.03	1.68
Bayfield & Douglas Cos.		
General Laborer, Mason Tender, Mortar Mixer, Air Hammer, Air Spade & Jack Hammer Operators	12.47	1.43
Plasterer Laborer	12.72	1.43
POWER EQUIPMENT OPERATORS		
Group 1	15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))		

DECISION NO. 84-5028

CLASSIFICATION DEFINITIONS

POWER POWER EQUIPMENT OPERATORS

Group 1 - Cranes, Shovels, draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2 - Material Hoists, Tractor or Truck MOunted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle, Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator

Group 3 - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

Group 4 - Hoists (automatic), Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tugger) Stump Chipper (large), Boats, Safety, Work, Barges and (launch)

Group 5- Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFR or over) Forklift (12' to 25')

Group 5 - Generators over 150 KW, Pumps over 3" Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and under)

[FR Doc. 84-33038 Filed 12-20-84; 8:45 am]

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federal register

Friday
December 21, 1984

Part VI

Environmental Protection Agency

40 CFR Part 86

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Final Rule and Denial of Petitions for Reconsideration

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2721-7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Gaseous and Evaporative Emission Regulations for 1985 Model Year Heavy-Duty Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In November 1983, new, more stringent hydrocarbon and carbon monoxide emission standards were promulgated for heavy-duty gasoline-fueled and diesel-powered engines beginning with the 1985 model year. This Final Rule establishes limited and temporary relief from the 1985 heavy-duty emission regulations for the General Motors 454 cubic inch displacement engine family. Such engines will be allowed to be produced and sold, exclusively for use in Class A motorhomes, during the period from January 1, 1985 through June 30, 1985, so long as they comply with 1985 California emission standards for heavy-duty gasoline engines.

Today's action is based upon an immediate emergency need for relief for manufacturers of Class A motorhomes. Therefore, the Agency finds good cause to dispense with a prior notice of proposed rulemaking and to make these rules effective immediately.

DATES: These regulations take effect on December 21, 1984.

Note.—Under section 307(b)(1) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

ADDRESSES: Material relevant to this final rule is contained in Public Docket No. A–81–11, U.S. EPA Central Docket, located in the West Tower Lobby, Gallery 1, at 401 M Street, SW, Washington, D.C. 20460, (202) 382–7548. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4390.

SUPPLEMENTARY INFORMATION:

I. Background

In November 1983, EPA promulgated revised emission standards for 1985 and 1986 model year heavy-duty gasoline engines (HDGE) under section 202(a)(3) of the Clean Air Act, as amended (48 FR 52171). The standards require reductions in hydrocarbon (HC) and carbon monoxide (CO) emissions from these engines which are achievable with non-catalytic converter control technology. On March 30, 1984, General Motors Corporation (GM) petitioned EPA to, among other things, delay the effective date of the 1985 HDGE standards. GM alleged that its prototype engines were experiencing durability problems caused by excessive temperatures and that those problems would preclude compliance with the standards as originally promulgated. On April 6, 1984, the Recreational Vehicle Industry Association (RVIA) petitioned EPA to exempt engines used in Class A motorhome chassis [1] from the same 1985 standards. RVIA alleged that such relief was necessary because: (1) GM was the sole source supplier of gasoline-powered truck chassis used by the many secondary manufacturers of Class A motorhomes, and (2) GM had informed the industry that the requisite chassis would be unavailable because of problems associated with meeting the 1985 Federal emission standards. Therefore, the factual basis supporting RVIA's petition was the technical information GM submitted to support its own petition.

Section 307(d)(7)(B) of the Act establishes specific criteria under which the Administrator may be required to convene a formal reconsideration of a rule. The Agency's review of the GM and RVIA petitions demonstrated that they failed to meet the criteria for such a mandatory reconsideration of the 1985 emission standards. The factual content of the two petitions also failed to establish any valid basis for discretionary reconsideration of the standards.[2] Consequently, both petitions for formal reconsideration have been denied, as announced elsewhere in today's **Federal Register**.

In completing its evaluation of the GM petition, the Agency has determined that there would likely be a delay on the part of GM in introducing 1985 model year versions of one of its engine families, the 454 cubic inch displacement (CID) engine. Such an event is possible because GM is continuing to experience unacceptable exhaust manifold durability for this engine. As discussed more fully in the following section, a delay in the production of this engine could seriously disrupt the Class A motorhome market for manufacturers represented by RVIA and cause significant economic hardship. Therefore, EPA has decided to provide a limited, temporary provision under which GM 454 CID engines may continue to be produced to supply the Class A motorhome market.

II. The Class A Motorhome Industry and the GM 454 CID Engine

The recreational vehicle industry is primarily composed of many small, independently-owned companies located throughout the nation, employing approximately 30,000 people. Class A motorhome sales were 33,400 in 1983. This accounted for about 10 percent of all the recreational vehicles sold in that year, and about 20 percent of the industry's revenue. Approximately 40 companies build Class A units. Some of these companies are much more dependent on Class A sales than suggested by the industry-wide figures because such motorhomes may represent up to 50 percent of their annual sales. It is also important to note that all recreational vehicle manufacturers are still in the process of recovering from the economic recession that adversely affected the entire automotive industry in the 1970's. Because of the precarious economic status of many Class A motorhome manufacturers and the importance of Class A sales to their well-being, even short delays in 1985 production would have serious consequences.

GM is essentially the sole source for the engines and chassis used for Class A motorhomes. The 454 CID engine is the standard engine for approximately 95 percent of these chassis and EPA finds that no suitable alternative powerplants are available to satisfy the market demand for these units. For example, no other GM engine is appropriate for use in this application without forcing a costly, time-consuming redesign of the chassis and motorhome itself. Also, as as result of GM having no competition in

[1] Class A motorhomes are the largest complete recreation vehicle made. They are those motorhomes which are constructed on an otherwise empty chassis rather than being modifications to existing body types such as truck cabs or vans. The initial chassis consists only of frame, engine, drivetrain, and vehicle controls.

[2] Copies of EPA's responses to these two petitions are available for review in EPA Docket No. A–81–11.

this market, chassis from other manufacturers are not available to rapidly replace the GM chassis. Therefore, the continued production of Class A motorhomes is critically dependent on the availability of GM chassis equipped with the 454 CID engines.

The Agency's market analysis of the 454 CID engine shows that Class A motorhomes account for slightly over half of the total annual engine sales. The remaining engine sales are spread over a wide variety of applications. The Agency has examined these uses and finds no similar disruption is likely in any other market. Alternatives are available for the other applications, in the form of other GM engines or products from other manufacturers.

For these reasons, EPA concludes that the temporary unavailability of the 454 CID engine would seriously affect only the recreational vehicle industry. The Agency also finds two reasons to believe that the potential for such an occurrence is very high. First, GM has already postponed production of the 454 CID engine for the 1985 model year.[3] Second, GM apparently has thus far failed to find an acceptable solution to the durability problem associated with the design approach the company has chosen for the 454 CID engine, and has stated that production of this engine could be delayed about six months.

III. Content of this Rulemaking

Because of the unique circumstances of this situation, EPA is providing limited, temporary relief from the 1985 HDGE standards for GM 454 CID engines sold in Class A motorhome chassis. The form of the relief consists of allowing Federal certification for 454 CID engines complying with the 1985 California HDGE emission standards and sold for exclusive use in Class A motorhomes. This relief will be available for the six months from January 1, 1985 to June 30, 1985 and engines produced under these provisions will be required to bear an identifying label. The Agency is confident GM will have no difficulty producing engines under these standards in sufficient quantities to satisfy the Class A motorhome market.

The Agency finds that allowing the use of 1985 California standards is preferable to the alternative of maintaining the 1984 Federal standards. As shown in Table 1, the California standards are somewhat more stringent for HC and HC+oxides of nitrogen (NO_x), and have the added advantage of reducing evaporative HC emissions not controlled under the 1984 Federal standards. Therefore, this approach provides the greatest degree of emission control that is possible in this unique situation, without causing unreasonable adverse effects on the captive recreational vehicle industry.

TABLE 1.—1985 CALIFORNIA AND 1984 FEDERAL HDGE STANDARDS

	HC*	CO*	HC + NO_x*	Evap. HC**
1985 California	0.5	25	4.5	2
1984 Federal	1.5	25	10	.....

*g/BHP-hr using the 9-mode test procedure.
**g/test.

Environmental Impact

The Agency expects no significant adverse environmental impact to result from this action. RVIA projects that up to 40,000 Class A motorhomes will be sold in 1985.[4] If the full 6-month period for alternative standards is used by GM, this could affect about 20,000 vehicles. However, because of the seasonal nature of this industry, somewhat more than this number might actually be produced under the provision. Regardless of the exact number, this represents only about 5–10 percent of all heavy-duty gasoline engine sales. RVIA further indicates that these units are driven less than 10,000 miles per year.[4] Because these are recreational vehicles, most of this mileage would likely not occur in urban areas with significant air quality problems. Furthermore, these vehicles will be certified in compliance with standards that are somewhat more stringent then those which were applicable in the previous model year. Therefore, no significant impact on air quality is expected.

Legal Authority

The statutory authority for this action is provided by section 202(a)(3) (B) and (C) of the Clean Air Act, 42 U.S.C. 7521(a)(3)(B), 7521(a)(3)(C).

Public Participation

This action is being implemented immediately by today's Final Rule because of the emergency nature of the situation. The recreational vehicle industry is dependent on chassis from GM for the construction of Class A motorhomes. Any significant delay in the availability of Class A chassis would substantially disrupt this small captive industry. Since little more than two months remain before the start of the 1985 model year, a notice of proposed rulemaking would precipitate such a delay and substantially reduce the benefits of this action. Additionally, the immediate implementation of these regulations will have no significant adverse environmental effects. There will also be no significant adverse competitive effects because GM has no competition in this market. Therefore, the Agency finds good cause exists for omitting as unnecessary, impractical, and contrary to the public interest a notice of proposed rulemaking and also for making this regulation effective immediately.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts and has no significant adverse effects on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

Effect on Small Entities

Section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires the Administrator to certify regulations that do not have a significant impact on a substantial number of small entities. This regulation will positively affect a number of small entities by ensuring the continued production of Class A motorhomes. Such vehicles represent a substantial portion of the sales revenue for many small recreational vehicles manufacturers. Therefore, I certify that this regulation will not adversely affect a substantial number of small entities.

Information Collection Requirements

This rule does not contain any information collection requirements subject to OMB review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

[3] Letter from Betsy Ancker-Johnson, Vice-President, GM, to William D. Ruckelshaus, Administrator, EPA, dated October 11, 1984.

[4] Letter from David J. Humphreys, President and General Counsel, RVIA, to Richard D. Wilson, Office Director, OMS, EPA, dated June 1, 1984.

Dated: December 13, 1984.

William D. Ruckelshaus,

Administrator.

Authority: secs. 202(a)(3)(B), 202(a)(3)(C), and 301 of the Clean Air Act, as amended.

PART 86—[AMENDED]

For the reasons set forth in the preamble, Part 86 of Title 40 of the Code of Federal Regulations is amended as set forth below:

Subpart A—[Amended]

1. Section 86.085–10 is revised by adding a new paragraph (e), to read as follows:

§ 86.085–10 Emission standards for 1985 and later model year gasoline-fueled heavy-duty engines and vehicles.

* * * * *

(e)(1) Nothwithstanding the requirements of paragraphs (a) through (d) of this section, 454 cubic inch displacement (CID) gasoline-fueled heavy-duty engines manufactured by General Motors Corporation may be certified to the following standards for model year 1985, *provided that* the conditions and restrictions of paragraphs (e)(2) through (e)(7) of this section are satisfied:

(i) *Hydrocarbons.* 0.5 grams per brake horsepower hour.

(ii) *Carbon Monoxide.* 25 grams per brake horsepower hour.

(iii) *Hydrocarbons plus oxides of nitrogen.* 4.5 grams per brake horsepower hour.

(2) The standards set forth in paragraph (e)(1) of this section refer to the exhaust over operating schedules as set forth in Subpart D and measured and calculated in accordance with those procedures.

(3) Evaporative emissions from vehicles certified under the provisions of paragraph (e) of this section shall not exceed:

(i) *Hydrocarbons.* 2 grams per test.

(ii) The standard set forth in paragraph (e)(3)(i) of this section refers to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.085–23(b)(4)(ii)).

(4) Only 454 CID engines produced by General Motors Corporation, and intended for use in "Class A motorhomes" may be certified under the provisions of paragraph (e) of this section. For the purposes of this paragraph, a "Class A motor home" is defined as "a motor home where the living unit has been entirely constructed on a bare, motor vehicle chassis."

(5) Any 454 CID engines as described in paragraph (e)(4) of this section that are certifed for sale in California, in accordance with all applicable California gaseous and evaporative emission standards and test procedures, may be deemed as satisfying the special Federal certification provisions of paragraph (e) of this section.

(6) The manufacturer shall submit to the Administrator all test data and other materials that were submitted to California for approval as described in paragraph (e)(5) of this section. The Administrator, after reviewing this information and determining that all applicable standards and test procedures for California certification have been met, will issue a Federal certificate of conformity for those engines.

(7) Certification under the provisions of paragraph (e) of this section is limited to model year 1985 engines produced on or after January 1, 1985, and before July 1, 1985.

(8) All requirements applicable to model year 1983 gasoline-fueled heavy-duty engines that do not conflict with the requirements of 1985 model year California certification are applicable to engines certified under the provisions of paragraph (e) of this section.

(9) All engines certified under the special provisions of paragraph (e) of this section shall be labeled in accordance with § 86.085–35(a)(3)(iii)(K), in addition to compliance with all other labeling requirements applicable to gasoline-fueled heavy-duty engines.

(10) All of the provisions of paragraph (e) of this section are void effective July 1, 1985.

2. Section 86.085–35 is revised by adding a new paragraph (a)(3)(iii)(K), to read as follows:

§ 86.085–35 Labeling.

(a) * * *

(3) * * *

(iii) * * *

(K) For gasoline-fueled engines certified under the special provisions of § 86.085–10(e), the prominent statement: "This engine is certified for use outside of California only in Class A motor homes, under the special provisions of § 86.085–10(e), and may not be used in any other application."

* * * * *

[FR Doc. 84–33208 Filed 12–20–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 86

[AMS–FRL–2721–7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Denial of Petitions for Reconsideration.

SUMMARY: This document announces EPA's denial of petitions for reconsideration by General Motors Corporation and the Recreational Vehicle Industry Association regarding regulations applicable to 1985 and later model year heavy-duty gasoline engines. These requirements were contained in regulations published on November 16, 1983 (48 FR 52170). The denials of these two petitions were signed by the EPA Deputy Administrator on December 13, 1984.

ADDRESSES: A copy of the petitions and EPA's responses may be obtained from the Central Docket Section (LE–131A), West Tower Lobby, 401 M Street, SW., Washington, D.C. 20460. ATTN: Docket A–81–11.

FOR FURTHER INFORMATION CONTACT: Gregory J. Dana, Office of Mobile Sources, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, Telephone: (202) 382–7647.

Note.—Under section 307(b)(1) of the Clean Air Act, EPA hereby finds that this action is of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of this Act, the decision which is the subject of this notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

Dated: December 13, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84–33207 Filed 12–20–84; 8:45 am]

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federal register

Friday
December 21, 1984

Part VII

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Decision and Referendum Order on Proposed Further Amendment of the Marketing Agreement and Order; Correction